

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR WIND RIDGE  
ESTATES, PHASES I AND II

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**6/17/1988**

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## Table of Contents

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS .....	1
ARTICLE II, PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO .....	3
2.01. Existing Property. ....	3
2.02. Additions to Existing Property. ....	3
2.03. Title to the Common Properties .....	4
2.04. Use of Common Properties. ....	5
2.05. Members' Easements of Enjoyment in Common Areas. ....	5
2.06. Delegation of Use of Common Areas. ....	6
ARTICLE III, THE ASSOCIATION .....	6
3.01. Association.....	6
3.02. Membership.....	6
3.03. Voting Rights.....	6
3.04. Quorum, Voting and Notice Requirements for Members' Meetings. ....	7
3.05. Board of Directors.....	7
3.06. Powers and Duties of the Board of Directors.....	7
3.07. Indemnification of Directors. ....	9
ARTICLE IV, INSURANCE, REPAIR AND RESTORATION .....	9
4.01. Right to Purchase Insurance.....	9
4.02. Property Insurance Proceeds.....	9
ARTICLE V, COVENANTS. FOR ASSESSMENTS .....	10
5.01. Agreement to Pay Assessments; Creation of the Lien. ....	10
5.02. Purpose of Assessments; Uniform Rates. ....	10
5.03. Basis and Amount of Annual Maintenance Assessments. ....	10
5.04. Special Assessments. ....	11
5.05. Individual Special Assessments.....	11
5.06. Notice and Quorum for Members' Meetings. ....	11
5.07. Commencement of Assessments; Due Dates; Other Duties of the Board. ....	12
5.08. Effect of Non-Payment of Assessment; Personal Obligation of the Owner; Remedies of Association. ..	12
5.09. Rights of the City of Dallas .....	13
5.10. Subordination of the Lien to Mortgages. ....	14
5.11. Exempt Property. ....	14
ARTICLE VI, ARCHITECTURAL CONTROL COMMITTEE .....	14
6.01. Appointment. ....	14
6.02. Removal and Successors. ....	14
6.03. Authority. ....	14
6.04. Procedure for Approval. ....	15

6.05.	Standards .....	16
6.06.	Termination; Continuation .....	16
6.07.	Liability of Committee. ....	16
ARTICLE VII, CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS .....		16
7.01.	Residential Use.....	16
7.02.	Single-Family Use.....	16
7.03.	Garage Required.....	17
7.04.	Restrictions on Resubdivision.....	17
7.05.	Driveways.....	17
7.06.	Uses Specifically Prohibited.....	17
7.07.	Minimum Floor Area.....	20
7.08.	Building Materials.....	20
7.09.	Side Line and Front Line Setback Restrictions.....	20
7.10.	Waiver of Front Setback Requirements .....	20
7.11.	Fences and Retaining Walls.....	20
7.12.	Sidewalks.....	21
7.13.	Mailboxes.....	21
7.14.	Other Structures and Improvements.....	21
ARTICLE VIII, EASEMENTS .....		21
8.01.	Utility, Fence and Retaining Wall Easements.....	21
8.02.	Ingress, Egress and Maintenance by the Association.....	22
8.03.	Police Power Easement.....	22
ARTICLE IX, MAINTENANCE AND ENFORCEMENT .....		22
9.01.	Owner Maintenance Requirements.....	22
9.02.	Enforcement of Maintenance.....	22
9.03.	Enforcement.....	22
ARTICLE X, GENERAL PROVISIONS.....		23
10.01.	Term.....	23
10.02.	Amendments.....	23
10.03.	Recorded Plats.....	23
10.04.	Mortgages.....	23
10.05.	Proposals of Declarant.....	23
10.06.	Notices to Owners.....	24
10.07.	Severability.....	24
10.08.	Binding Effect.....	24
10.09.	Other Authorities.....	24
10.10.	Exhibits.....	24

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
WIND RIDGE ESTATES PHASES I AND II

THE STATE OF TEXAS  
COUNTY OF DALLAS

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KNOW ALL MEN BY THESE PRESENTS:

THAT the property subject to the covenants, conditions, easements and restrictions of this Declaration is Wind Ridge Phase I and the proposed Wind Ridge Phase II (collectively, the "Additions"), which Additions are described by metes and bounds in Exhibit A. Wind Ridge Phase I is a subdivision to the City of Dallas (the "City"), Dallas County, Texas, according to the plat thereof recorded at volume 88099, page 604 of the Deed Records of Dallas County, Texas. The owners of all lots within Wind Ridge Phase I and of all property within the proposed Wind Ridge Phase II are TCR-MOUNTAINN CREEK NO. I LIMITED PARTNERSHIP ("TCR"), a Texas limited partnership, and TCR III-A.S. MOUNTAIN CREEK NO. I LIMITED PARTNERSHIP ("TCR III-A.S."), a Texas limited partnership (collectively, "Mountain Creek").

Mountain Creek has subdivided Wind Ridge Phase I. and is in the process of subdividing Wind Ridge Phase II, into single family residential lots. The Additions include certain common properties around their perimeters which have been or will be conveyed to the homeowners' association created herein for the purpose of enhancing and protecting the value, attractiveness and desirability of the Additions. The Additions are the first two of three Wind Ridge subdivision phases contained in a master development plan of land owned by Mountain Creek, or its affiliates, which plan also includes four proposed subdivisions referred to as the Fox Hollow phases and certain proposed common areas for some or all of the Wind Ridge and/or Fox Hollow subdivisions (such Wind Ridge and Fox Hollow phases and common areas are herein referred to as the "Development Area"). Mountain Creek anticipates that the proposed common areas either will be dedicated to, and maintained by, the City for public use, or a joint and/or partitioned interest will be conveyed to the homeowners' associations of some or all of the Wind Ridge and/or Fox Hollow subdivisions, to be owned and maintained by such associations, including the association created herein. However, nothing herein shall bind Mountain Creek to, or constitute a representation to be relied upon that Mountain Creek will, adhere to its master development plan, develop the remainder of the Development Area as residential property or provide common areas in the Development Area.

Mountain Creek hereby declares that all property within the Additions, together with any other property which may hereafter be annexed and made subject to this Declaration, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions (these "Covenants and Restrictions"), which are for the purpose of establishing a general scheme for the development of the property within the Additions and for the purpose of enhancing and protecting the value, attractiveness and desirability of the Additions and any annexed property, and said easements, restrictions, covenants and conditions shall run with the land and be binding on all parties having or acquiring any right, title or interest in the Additions and any property annexed hereto, or any part thereof, and shall inure to the benefit of each owner thereof and to the benefit of Declarant.

**ARTICLE I,  
DEFINITIONS**

The following words when used in this Declaration or any amendment or supplement hereto (unless the context shall otherwise clearly indicate or prohibit) shall have the following meanings:

(a) "Articles of Incorporation" means the Articles of Incorporation of the Association as amended from time to time.

(b) "Association" means Wind Ridge Estates Phases I and II Homeowners' Association, Inc., a Texas non-profit corporation.

(c) "By-Laws" means the By-Laws of the Association as amended from time to time.

(d) "Committee" means the Architectural Control Committee described in Article VI.

(e) "Common Areas" means any real property, an interest in which has been conveyed to the Association for recreation, greenbelts, open spaces or related uses, intended for and devoted to the common use and enjoyment of the Members as described in Article II, Section 2.05.

(f) "Common Properties" means (i) any Common Area for Fences shown on the Plats; (ii) any parkway or median within a public right-of-way that adjoins or is in close proximity to the Additions and which the Association is permitted to landscape and maintain; (iii) any property adjoining the Additions to which the Association has been granted a license or other right to use or improve, including public rights-of-way; (iv) any fence or landscaping easement conveyed to the Association; (v) any Common Areas conveyed to the Association; (vi) any property which is hereafter annexed and which is conveyed to the Association to be maintained and improved by the Association for the purpose of enhancing and protecting the value, attractiveness and desirability of the property subject to this Declaration; and (vii) any and all improvements that are now or may hereafter be on any of the above.

(g) "Declarant" means TCR and TCR III-A.S., or their respective successors, or any person or entity that acquires the fee title to at least 25% of the Lots covered by this Declaration and to whom TCR and TCR III-A.S., or their respective successor, assign by written assignment their rights as Declarant hereunder. If additional property is annexed pursuant to Section 2.02, all or substantially all of which is owned by an affiliate of Mountain Creek, "Declarant" shall mean both Mountain Creek and such affiliate. When the Declarant consists of more than one person, the acts of Declarant shall be exercised by the one owning the greater net fee title to Lots covered by this Declaration, or otherwise by them as they, among themselves, determine.

(h) "Declaration" means this Declaration of Covenants, Conditions and Restrictions for Wind Ridge Estates Phases I and II, and all amendments and supplements hereto.

(i) "Exempt Property" means that property as defined in Section 5.11, Article V.

(j) "FHA" means the Federal Housing Administration, its successor, or other agency charged with administering its duties, including the Department of Housing and Urban Development.

(k) "Lot" means any plot or tract of land which is platted as a lot in any of the Plats and which is or is intended to be improved with a residential dwelling; provided any portions of the Common Properties which are platted as a lot on the Plats shall be excluded from the definition of "Lot" as used herein.

(l) "Member" means each Owner of a Lot as described in Section 3.02.

(m) "Owner" means each and every person or entity who is a record owner of a fee or undivided fee interest in any Lot subject to these Covenants and Restrictions; however, the word "Owner" shall not include the Association nor any person(s) or entity(ies) who merely hold an easement upon a Lot, or a lien or interest in a Lot as security for the performance of an obligation.

(n) "Person" or "person" includes any individual, personal representative, trustee, trust, estate, partnership, joint venture, receiver, association, company or corporation.

(o) "Plats" shall mean (i) the plat of Wind Ridge Phase I recorded at volume 88099, page 604 of the Deed Records of Dallas County, Texas, (ii) the plat of Wind Ridge Phase II as approved and accepted by the City, (iii) any other plat which has been approved and accepted by the City, and the property covered thereby has been annexed to the scheme of this Declaration, and (iv) any replat or subdivision of all or any portion of such plats.

(p) "VA" means the Veteran's Administration.

ARTICLE II,  
PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

**2.01. Existing Property.** The real property covered by this Declaration on the date of its execution is the Additions, located in the City of Dallas, Dallas County, Texas, and described by metes and bounds in Exhibit A. Additionally, the Association has the right to landscape and maintain landscaping and fences within the parkway or median of public rights-of-way which adjoin or are in close proximity to the Additions.

**2.02. Additions to Existing Property.** Additional land(s) may become subject to this Declaration in any of the following manners:

(a) The Declarant may add by annexation to the scheme of this Declaration, without the consent of other Members, all or any part of the real property contained within the Development Area by recording in the Dallas County Deed Records a Supplementary Declaration of Covenants, Conditions and Restrictions which shall extend the scheme of the covenants, conditions and restrictions of this Declaration to such property. The Declarant may annex as Common Areas all or any portion of the property proposed as common areas in the Development Area by (i) filing a supplementary declaration to such effect, and (ii) conveying to the Association an interest in all or any portion of such property, free and clear of all liens. If the Association acquires a joint interest in a Common Area, such area shall be maintained, improved and otherwise administered as the Association and other joint interest owners agree. If any other property within the Development Area is annexed by Declarant, a portion of such property may be conveyed to the Association as Common Properties. Annexations by the Declarant pursuant to this Paragraph (a) are subject to the FHA and VA determining that the annexation is in accord with the general plan heretofore approved by them.

(b) In the event any person or entity (other than the Declarant pursuant to Paragraph (a) of this Section 2.02) desires to annex Additional residential and/or Common Areas to the scheme of this Declaration, such proposed annexation must have the prior written consent and approval of 2/3 of the votes of each class of Members who are voting in person or by proxy at a duly held meeting of the Association.

(c) Any annexations made pursuant to Paragraphs (a) and (b) of this Section 2.02, when made: (i) shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties annexed; (ii) may contain in a supplementary declaration such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed properties and as are not inconsistent with the concept of this Declaration; and (iii) shall result in an assessment of the non-Exempt Property within such annexed property which is uniform with all other non-Exempt Property covered by this Declaration.

(d) The Declarant shall have the right and option upon the joinder, approval or consent of other associations to cause the Association to merge or consolidate with any similar association then having jurisdiction over real property located (in whole or in part) within the Development Area. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law or otherwise, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law or otherwise, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration, together with the covenants, conditions and restrictions administered by the other association upon any other properties, as one scheme.

**2.03. Title to the Common Properties.** The Common Properties (other than properties within public rights-of-way) shall be owned by the Association. The Association may obtain an easement or a fee or undivided fee interest in, or a license to use, real property. In the event the Association dissolves and the Common Properties are not either dedicated to and accepted by the City or other appropriate public agency, authority or utility or conveyed to another association or entity that assumes the Association's maintenance obligations, title to the Common Properties shall pass, subject to the City's rights under Section 5.09, as follows:

(a) to another homeowners association or similar entity which shall be established by the Class A Members and shall (i) conform to the requirements of FHA and VA, (ii) undertake to maintain the Common Properties, (iii) not convey any of the Common Properties without approval of 2/3 of the votes of the Class A. Members, and (iv) otherwise be structured as agreed by the Class A Members; or

(b) if a homeowners association or other entity is not created pursuant to Section 2.03(a) within one year from the date of dissolution of the Association:

(i) easements within the property lines of the Lots shall be distributed to and vest in the Owners of the respective Lots on which such easement is located, each such Owner to receive only the portion of such easement, and improvements within such easement, as are contained within such individual Owner's Lot;

(ii) all other real property comprising the Common Properties shall be

distributed to and vest in the Members so that each Lot is attributed an undivided interest in each of the properties in the proportion that each Lot bears to all Lots covered by this Declaration, and each such undivided interest shall be appurtenant to the respective Lot, and shall be considered to be conveyed with the Lot regardless of whether the interest is referenced in the instrument of conveyance; provided that the Members can adopt another plan of distribution for such real property by a 2/3 vote of each class; and

(iii) all personal property shall be distributed as provided in the Association's plan of distribution.

**2.04. Use of Common Properties.** The Common Areas are intended for the use and enjoyment of the Members as provided in Section 2.05 of this Article. All other portions of the Common Properties are not intended for the use of the Members, but are intended exclusively for landscaping, sprinkler systems, fences, entry monuments and similar uses, to enhance and protect the value, attractiveness and desirability of the property covered by this Declaration. Any landscaping or other improvement placed are constructed by the Association or Declarant on Common Properties within the Lot lines of a Lot shall be maintained (but not removed or replaced) by the Lot owner; provided that the Association shall also have the right to provide maintenance for such landscaping or other improvements, and shall have the sole right to remove or replace such landscaping or other improvements and to perform all maintenance and repairs on any such sprinkler system unless the Board of Directors otherwise consents to a Lot Owner taking such actions.

**2.05. Members' Easements of Enjoyment in Common Areas.** Every Member shall have a right and easement of use, recreation and enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title of every Lot; provided, however, such easement shall not give a Member the right to make alterations, additions or improvements to the Common Areas. The rights and easements of use, recreation and enjoyment created hereby shall be subject to the following:

(a) the right of the Association to prescribe reasonable regulations governing the use, operation and maintenance of the Common Areas;

(b) liens or mortgages placed against all or any portion of the Common Areas by the Association to improve or maintain the Common Areas;

(c) the right of the Association to enter into and execute contracts with any party (including, without limitation, the Declarant) for the purpose of providing maintenance or such other materials or services consistent with the purposes of the Association;

(d) the right of the Declarant or the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure;

(e) the right of the Association to suspend the voting rights of any Member to use or enjoy any of the Common Areas for any period (i) during which any assessment against a Lot of such Member remains unpaid, (ii) during which any violation of these Covenants and Restrictions exists by such Member, and (iii) not to exceed 60 days, for an infraction by such Member of the then-existing published rules and regulations of the Association; and

(f) subject to approval by written consent by the Members having 2/3 of the outstanding votes of each class of the Association (which consent shall be recorded in the Dallas County Deed Records), to dedicate or transfer all or any part of the Common Properties to any

municipal corporation, public agency, authority or utility company for such purposes and upon such conditions as may be agreed upon by such Members.

**2.06. Delegation of Use of Common Areas.** Any Owner may delegate, in accordance with the By-Laws and its rights under Section 2.05 of this Article, his right to use the Common Areas and facilities to the members of his family or his tenants who reside on his Lot.

ARTICLE III,  
THE ASSOCIATION

**3.01. Association.** The purpose of the Association is to enhance and protect the value, attractiveness and desirability of the Additions, and other property annexed hereto. The Association shall have the right, but not the obligation, to (i) acquire, hold, maintain, improve and convey the Common Properties, including without limitation install, protect, preserve, upkeep, maintain, repair and replace landscaping and improvements on the Common Properties, (ii) assess and collect the assessments as provided in Article V, (iii) administer and enforce these Covenants and Restrictions, and (iv) perform such other functions as provided or permitted in its Articles of Incorporation and Bylaws and this Declaration.

**3.02. Membership.** Every Owner of a Lot shall automatically be a Member of the Association. Since membership in the Association is appurtenant to and inseparable from ownership of a Lot, a person is obligated to remain in good standing so long as he owns a Lot, and a person's membership shall terminate automatically whenever such person ceases to be an Owner; but such termination shall not release or relieve such person from any liability or obligation incurred while a Member of the Association, nor impair any rights or remedies which the Association or any other Member has with regard to such former Member. The Board of Directors may declare that an Owner is not a Member in good standing because such Member has due but unpaid assessments, charges, interest or legal fees and/or is otherwise in violation of these Covenants and Restrictions. The Board of Directors may temporarily suspend the voting rights of any Member who is not in good standing until such due but unpaid amounts are paid in full or such violation is cured.

**3.03. Voting Rights.** The Association shall have two classes of voting membership:

CLASS A: Class A Members shall include all Members other than Class B Members. Class A Members shall be entitled to one vote for each Lot owned.

CLASS B: Class B Members shall include (i) the Declarant, and (ii) the owner of a Lot, other than the Declarant, who is in the process of constructing, or has constructed, pursuant to a sales contract with the Declarant, a residential dwelling on the Lot for sale to consumers, provided such residential dwelling is not and has never been occupied. The Class B Members shall be entitled to three votes for each Lot owned. The Class B membership shall cease, and the Class B Member shall become a Class A Member, upon the total outstanding votes in the Class A membership equaling or exceeding the total outstanding votes in the Class B membership.

Any person can be a Member of more than one class. When more than one person owns a joint interest in the fee title to a Lot, all such joint Owners shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote for Class A Members, or three votes for Class B Members, be cast with respect to any such Lot.

### **3.04. Quorum, Voting and Notice Requirements for Members' Meetings.**

(a) For acts which require a vote from the entire voting membership regardless of class, the presence at a Members' meeting of 1/10 of the votes entitled to be cast by the entire membership, regardless of class, represented in person or by legitimate proxy, shall constitute a quorum. Except as otherwise provided in this Declaration or the Articles of Incorporation, for acts which require a vote from each voting class of the membership, the presence at a Members' meeting of 1/10 of the votes entitled to be cast for each voting class of membership, represented in person or by legitimate proxy, shall constitute a quorum. If a quorum shall not be present or represented at any meeting, the Members present or represented may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented.

(b) Unless otherwise expressly required in the Articles of Incorporation or this Declaration, the vote of the majority of the votes entitled to be cast by all Members, regardless of class, present or represented by legitimate proxy at a meeting at which a quorum is present shall be the act of the Members. No portion of the Common Properties can be mortgaged, dedicated or conveyed without the approval of 2/3 of the votes of each class of Members who are voting in person or by proxy at a duly held meeting. As long as there is a Class B membership, annexation of additional properties, merger or consolidation, mortgaging of Common Properties, dedication or conveyance of Common Properties, and dissolution shall require the prior approval of the FHA or VA.

(c) Notice requirements shall be as set forth in this Declaration, the Articles of Incorporation and By-Laws.

**3.05. Board of Directors.** The affairs of the Association shall be conducted by its Board of Directors. The Board of Directors shall be elected by the Members entitled to vote and shall consist of not less than three nor more than nine directors. The Board of Directors shall be selected, serve and have such powers, duties, functions, authority and responsibility as shall be specified in this Declaration, the Bylaws, the Articles of Incorporation, the Texas Non-Profit Corporation Act, and as may be delegated to it from time to time by the Association not inconsistently with this Declaration.

### **3.06. Powers and Duties of the Board of Directors.**

(a) The Board, to the extent it deems reasonable and appropriate to accomplish the purposes of the Association, shall provide and shall pay for the following:

(i) care and preservation of the Common Properties and the furnishing, upkeep and replacement of any desired improvements or personal property for use on the Common Properties, including without limitation, grass, vines, ground cover, plants, trees, hedges, shrubs, water sprinkler systems, fountains, waterways~ fences, walls, entry monuments, lighting, walkways, bicycle and jogging paths, recreational equipment and areas, outdoor furniture, complementing structures and buildings, and other similar improvements;

(ii) the services of a person or firm to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the association, whether such personnel are employed directly by the Board or by the manager;

(iii) legal, engineering and accounting services;

- (iv) a policy or policies of insurance or bonds as provided in Article IV;
  - (v) workmen's compensation insurance to the extent necessary to comply with any applicable laws;
  - (vi) any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.
- (b) The Board additionally shall have the right but not the obligation:
- (i) to assess the Members, collect assessments, and enforce the maintenance requirements, remedies and liens as provided in Articles V and X, and to execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties;
  - (ii) to enter into agreements or contracts with insurance companies, taxing authorities and other appropriate persons with respect to: (i) taxes on the Common Properties, (ii) insurance coverage (if any) on the Common Properties, and (iii) the assessments, collections and disbursements envisioned by Article V;
  - (iii) to borrow funds to pay operating, maintenance and capital costs of the Association, secured by assignment or pledge of rights against delinquent Owners or of future assessments or a lien against the Common Properties, if the Board sees fit;
  - (iv) to enter into contracts, maintain one or more bank accounts, and, generally, to have all the powers necessary or incidental to the operation and management of the Association;
  - (v) to protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements;
  - (vi) to make reasonable rules and regulations for the operation of the Common Properties and to amend them from time to time, and to take any action contemplated by Section 2.05;
  - (vii) to make available to each Owner within 45 days after the end of each year an annual report;
  - (viii) pursuant to Article IV herein, to adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency; and
  - (ix) to enforce the provisions of this Declaration and any rules made hereunder and to exercise all other rights and perform all other obligations required or permitted hereunder or under the Articles of Incorporation or By-Laws.

(c) The Board shall have the exclusive right to contract or all goods, services and insurance, and the exclusive right and obligation to perform the functions of the Board, except as otherwise provided herein.

(d) The Board, on behalf of the Association, shall have full power and authority to contract with any Owner (including, without limitation, the Declarant) for the performance by the Association of services which. the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

**3.07. Indemnification of Directors.** The Association shall to the maximum extent permitted by law indemnify and advance expenses to defend all directors of the Association from liability for any act or omission of any or all directors while acting in such capacity.

ARTICLE IV,  
INSURANCE, REPAIR AND RESTORATION

**4.01. Right to Purchase Insurance.** The Association shall have the right and option to purchase, carry and maintain:

(a) insurance covering any or all portions of the Common Properties, and any improvements thereon or appurtenant thereto, including without limitation (i) public liability and property damage insurance on a broad form basis, in such amounts and with such endorsements and coverage as shall be considered reasonable and appropriate by the Board of Directors, and (ii) insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the insurance carrier;

(b) fidelity bond for all officers and employees of the Association having control over the receipt of disbursement of funds;

(c) officers' and directors' liability insurance; and

(d) such other types of insurance (except hazard or liability insurance on any one or more Lots) as the Board of Directors deems desirable for the interest of the Association, its Board, agents, officers and employees, and of the Members.

**4.02. Property Insurance Proceeds.** The Association and the Members shall use the net insurance proceeds from property damage to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of property insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for maintenance, repair and replacement of the Common Properties. If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in Article V of this Declaration to cover the deficiency.

ARTICLE V,  
COVENANTS FOR ASSESSMENTS

**5.01. Agreement to Pay Assessments; Creation of the Lien.** Mountain Creek, for each Lot owned by it within the Additions, hereby covenants and agrees, and each purchaser or Owner of any Lot by accepting conveyance thereof, whether or not it shall be so expressed in the deed or other means of conveyance, shall be deemed to covenant and agree to pay to the Association (or to an entity or agency which may be designated by the Association to receive such monies): (i) annual assessments authorized in Section 5.03; (ii) special assessments authorized in Section 5.04; (iii) individual special assessments authorized in Section 5.05; and (iv) all charges, interest and collection costs for such assessments. The annual and special assessments under Sections 5.03 and 5.04 (the "Common Assessments") represent each Member's share of expenses for the Association's budget. Mountain Creek hereby creates a continuing lien against the Lots to secure payment of the annual, special and individual assessments, and the late and service charges, together with such interest thereon and costs of collection thereof as hereinafter provided, which lien shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made, and shall be binding upon the Owner, his heirs, personal representatives and assigns; provided that the lien created hereby is subordinated as provided in Section 5.10.

**5.02. Purpose of Assessments; Uniform Rates.** The assessments levied by the Association shall be used exclusively to promote the health, recreation, safety and welfare of the residents of the Additions, to protect the value, attractiveness and desirability of the homes and property within the Additions, and specifically without limitation for the improvement and maintenance of landscaping, private walkways, jogging and bicycle trails and recreational areas, and for the repair, replacement and additions of improvements thereon; for the payment of taxes on the Common Properties and insurance (if any) in connection with the Common Properties and the repair, replacement and additions thereto; for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Properties; for carrying out the duties of the Board of Directors of the Association as set forth in Article III; for carrying out the duties of the Committee as set forth in Article VI; and for carrying out the various matters set forth or envisioned in this Declaration or in any amendment or supplement hereto. Annual assessments under Section 5.03 shall be fixed at a uniform rate within each class of Members. Special assessments under Section 5.04 shall be fixed at a uniform rate for all Lots.

**5.03. Basis and Amount of Annual Maintenance Assessments.**

(a) The Board of Directors shall establish the initial maximum annual assessment for the Lots at its first meeting, which maximum annual assessment should be adequate for the Association to carry out its responsibilities. After consideration of current maintenance costs and of reserve needs for future maintenance, replacement and contingent costs of the Association, the Board of Directors of the Association may fix the actual annual assessment at an amount equal to or less than the then-existing maximum annual assessment. If at any time during a fiscal year, the Board of Directors determines that the collections from the actual annual assessments established by the Board for such year are not sufficient to carry out its responsibilities, the Board may increase the actual assessment by a majority vote of the Board at a duly held Board meeting; provided such increase shall not cause the amount assessed to exceed the maximum annual assessment for that year, assuming all assessments for each Lot for the year or spread over the entire year. The Board of Directors may, in its discretion, provide for a discount for Members who prepay all or a part of their annual assessments; provided such discount shall apply uniformly to all Members, regardless of class. From and after January 1st of the year immediately

following commencement of annual assessments, the Board of Directors may increase the maximum annual assessment each year by not more than 10% above the maximum annual assessment for the preceding year. The maximum annual assessment may be increased by more than 10% in any year upon an affirmative vote of 2/3 of each class of Members who are voting in person or by proxy at a meeting duly held for such purpose.

(b) Since the Class B Members own their Lots for the purpose of sale and not for occupancy, Class B Member Lots shall be assessed at 50% of the annual assessment established for the Lots by the Board of Directors.

**5.04. Special Assessments.** In addition - to the annual assessments authorized by Section 5.03, the Association may levy in any year a special assessment, applicable to that year only, for the purpose of paying, in whole or in part, charges or costs of the Association in performing its purposes under this Declaration, including without limitation (i) the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties, including any necessary fixtures and personal property related thereto, (ii) the cost of lawsuits by the Association or costs to defend the Association, a director, Committee member, officer, employee or agent of the Association, and (iii) special maintenance costs; provided that: any such assessment shall have the affirmative approval of 2/3 of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose, except for an assessment for the cost to defend litigation against the Association, a director, Committee member, officer, employee or agent of the Association, which shall require a majority vote of the Board of Directors.

**5.05. Individual Special Assessments.** The Board of Directors may assess any individual Lot Owner for damages caused by such Owner, its family, guests or invitees, to the Common Properties, to the extent such Owner is legally responsible under Texas law. The Board of Directors may also assess individual Lot Owners as provided in Section 9.02. Cumulative of all other rights under this Declaration or otherwise permitted by judicial process (including civil damages for a violation of these Covenants and Restrictions), in the event that any Owner fails to cure (or fails to commence and proceed with diligence to completion the work necessary to cure) any violation of these Covenants and Restrictions, or any amendment thereto, within ten days after receipt of written notice from the Board designating the particular violation and the maximum assessment for such violation, the Board shall have the power and authority to assess such owner an amount not to exceed \$200.00 (a "Violation Assessment"). The Board shall promulgate a list, which may be revised from time to time and shall at no time be deemed inclusive, of violations and the Violation Assessment or range of Violation Assessments for the violation. The Violation Assessment shall be established after due consideration of (i) the detriment such violation has to the aesthetics, value and tranquility. of the other property subject to this Declaration, (ii) the Board's time and cost to enforce the violation, (iii) the immediate nuisance created by the violation, and (iv) such other factors as the Board deems reasonable and appropriate. The actual Violation Assessment shall require a separate action and notice by the Board from the notice of the violation. If a violation has not been cured or the Owner has not commenced the work necessary to cure a violation on the due date of a Violation Assessment for such violation, the Board shall have the power and authority to assess another Violation Assessment for such violation. There shall be no limit to the number or the aggregate amount of Violation Assessments which may be assessed against a person for the same violation.

**5.06. Notice and Quorum for Members' Meetings.** Written notice of any Members' meeting called for the purpose of taking any action authorized under Section 5.03 or 5.04 shall be sent to all members not less than 20 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast 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 1/2 of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 50 days following the preceding meeting.

**5.07. Commencement of Assessments; Due Dates; Other Duties of the Board.**

(a) The annual assessments provided for herein shall commence on the date fixed by the Board of Directors to be the date of commencement, and as may be prescribed by the Board of Directors, shall be payable annually or monthly, in advance, on the first day of each year or month, as the case may be. The fiscal year for annual assessments shall be the calendar year, and the first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due date or dates of special assessments under Sections 5.04 and 5.05 shall be fixed in the respective resolution authorizing such assessments.

(b) For assessments authorized in Sections 5.03 and 5.04, the Board of Directors shall establish the due date(s) and the amount of the assessment against each Lot for each assessment date or period at least 30 days in advance of such date or period; and the Board of Directors shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association. For assessments authorized in Section 5.05, the Board of Directors shall establish the due date and the amount of the assessment against a Lot at least 10 days in advance of the due date.

(c) Written notice of the assessment shall be delivered or mailed to every Owner subject thereto upon establishment of such assessment. The notice may include the amount and due dates for each installment of an assessment payable by more than one payment, which notice shall be adequate for all such installments. The Board of Directors may, but shall not be obligated to, additionally provide a coupon book or give additional notices for installment payments.

(d) The Board of Directors shall upon demand at any time furnish to any Owner liable for an assessment, a certificate in writing signed by an Officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the board for this issuance of such certificate.

**5.08. Effect of Non-Payment of Assessment; Personal Obligation of the Owner; Remedies of Association.**

(a) If any assessment or any part thereof is not paid within 15 days from the date(s) when due, then the unpaid amount of such assessment shall become delinquent and shall, together with late charges and any service charges [hereinafter defined in subparagraph (c) ], interest on such delinquent assessment from the due date at the highest permitted lawful rate per annum and costs for collection thereof, thereupon become a continuing debt secured by the lien on the Lot of the non-paying Owner. The Association shall have the right to reject partial payments of an assessment and demand the full payment thereof, and acceptance of a partial payment shall not waive the Board's right to demand full payment, unless the Board so states in writing. The assessment, together with charges, interest and costs of collection, are the personal obligation of the Owner of the assessed Lot as of the time when such are due, and shall remain his personal obligation upon conveyance of the Lot, and his successors in title shall not be personally liable for such obligation unless expressly assumed by them. Furthermore, the lien for unpaid assessments shall be unaffected by any conveyance of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the assessment provided herein by non-use of the Common Properties or by abandonment of his Lot.

(b) The Association may, but is not obligated to, give written notification to the holder(s) of the mortgage on the Lot of the non-paying Owner's default in paying any assessment when such default has not been cured within 15 days.

(c) If any Common Assessment remains unpaid at the expiration of 15 calendar days from and after the due date established by the board, a late charge (for additional operating costs necessary to collect delinquent assessments) of \$25.00 shall be assessed against the non-paying Owner for each month that any portion of such Common Assessment remains unpaid. A service charge in the amount of \$10.00 shall be charged for each check that is returned because of insufficient funds. The amounts of late charges and service charges may be adjusted, from time to time, by the Board consistent with any changes in the amounts of maximum annual assessments.

(d) If any assessment, late charge, service charge, interest, or any part thereof, is due but unpaid, the Association may, at its election, retain the services of an attorney for collection and there shall also be added to such amount an and all collection costs incurred hereunder by the Association, including reasonable attorneys' fees.

**5.09. Rights of the City of Dallas.** Unless otherwise approved by 75% of the outstanding votes within each class, the Association shall not by act or omission seek to abandon its obligations as established by this Declaration. However, the City of Dallas shall have the right, but not the obligation, to assume the duty of performing the maintenance obligations of the Association in the event that:

(a) the Association dissolves and the Common Properties shall not be either (i) dedicated to and accepted by the City or other appropriate public agency, authority or utility to be devoted to purposes as nearly as practicable as those to which such Common Properties were required to be devoted by the Association, or (ii) conveyed to another association or entity which assumes all of the Association's obligations imposed hereunder to maintain the Common Properties; upon the City giving written notice to the Owners within 180 days after such dissolution; or

(b) the Association, its successors or assigns, shall fail or refuse to adequately maintain the appearance and condition of the Common Properties which it is obligated to maintain hereunder; upon the City giving the Association, its successor or assign, written notice specifying in detail the nature and extent of the failure to maintain the Common Properties, and the Association failing to cure such deficiencies within 30 days after receipt of such written notice.

Upon assuming such maintenance obligations, the City of Dallas may collect, when the same become due, all assessments, annual or special, levied by the Association pursuant to the provisions hereof for the purposes of repairing, replacing, maintaining or caring for the Common Properties; and, if necessary, enforce the payment of delinquent assessments in the manner set forth herein. In the alternative, upon assuming such maintenance obligations, the City of Dallas may levy an assessment upon each Lot on a pro rata basis for the cost of such maintenance, notwithstanding any other provisions contained in this Declaration, which assessment shall constitute a lien upon the Lot against which each assessment is made. During any period that the City of Dallas assumes the obligation to maintain and care for the Common Properties, the Association shall have no obligation or authority with respect to such maintenance. The right and authority of the City of Dallas to maintain the Common Properties shall cease and terminate when the Association, its successors and assigns, shall present to the City of Dallas reasonable evidence of its willingness and ability to resume maintenance of the Common Properties. In the event the City of Dallas assumes the duty of performing the maintenance obligations of the Association as provided herein, then the City of Dallas, its agents, representatives and employees, shall

have right of access, ingress and egress to and over the Common Properties for the purposes of maintaining, improving and preserving the same, and in no event, and under no circumstances, shall the City of Dallas be liable to the Association or any Owner or their respective heirs, devisees, personal representatives, successors and assigns for negligent acts or construction (excluding, however, malfeasance and gross negligence) relating in any manner to maintaining, improving and preserving the Common Properties.

**5.10. Subordination of the Lien to Mortgages.** The lien created in Section 5.01 shall be subordinate and inferior to the lien of any first mortgage or deed of trust now or hereafter placed upon the Lots. Conveyance of a Lot pursuant to foreclosure or any proceeding in lieu thereof shall release the Lot as security for payment of assessments, charges, interest and collection costs which become due prior to such conveyance; otherwise, the lien created herein shall continue to secure amounts due but unpaid at the time of conveyance. No conveyance shall relieve such Lot from liability for any assessments thereafter becoming due, nor extinguish the lien created hereby against such Lot nor relieve the former Owner from personal liability of unpaid amounts existing at the time of a conveyance.

**5.11. Exempt Property.** The following property otherwise subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- (a) all properties dedicated and accepted by the Local public authority and devoted to public use;
- (b) all Common Properties as defined in Article I; and
- (c) any interest in real property other than a fee (or undivided fee) interest.

ARTICLE VI,  
ARCHITECTURAL CONTROL COMMITTEE

**6.01. Appointment.** So long as the Declarant is the Owner of a Lot, the Declarant shall designate and appoint an Architectural Control Committee composed of three individuals, each generally familiar with the residential and community development design matters and knowledgeable about Declarant's concern for a high level of taste and design standards within the Additions. Thereafter, the Board of Directors shall appoint the Committee members. The members of the Board of Directors can also serve as the members of the Committee. No member of the Committee shall be entitled to compensation for services performed pursuant to this Declaration.

**6.02. Removal and Successors.** The Declarant or the Board of Directors, whichever has authority to appoint Committee members, shall have the right to remove any member of the Committee at any time, with or without cause. In the event of the death, resignation or removal of any member of the Committee, the Declarant or the Board of Directors, whichever has authority to appoint Committee members, shall appoint a successor member.

**6.03. Authority.** No building, fence, wall, pole, improvement or other structure shall be commenced, erected, placed, added or altered on any Lot until all plans and specifications and a plot plan have been submitted to and approved in writing by a majority of the members of the Committee as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and proper facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping in relation to the various parts of the proposed improvements and in relation to improvements on other Lots in the Additions; and
- (c) the other standards set forth within this Declaration (and any amendments hereto) or matters in which the Committee has been vested with the authority to render a final interpretation and decision.

No landscaping or exterior painting of any building or other improvement, on a Lot shall be undertaken until such has been approved in writing by a majority of the members of the Committee. The Committee is authorized and empowered to consider and review any and all aspects of construction and landscaping which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more Lot Owners or the general value of Lots in the Additions. In considering the harmony of external design between existing structures and the proposed building to be erected, placed, added or altered, the Committee shall consider only the general appearance of the proposed building as that can be determined from front, rear and side elevations on submitted plans.

**6.04. Procedure for Approval.** Final plans and specifications shall be submitted in duplicate by certified mail to the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and location of all landscaping and improvements. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this Declaration. The Committee is authorized to request the submission of samples of proposed construction materials. After the Committee has considered final plans and specifications for a lot or Lots, the Committee shall either approve, approve with modifications or conditions, or disapprove such plans and specifications, shall retain one complete set of plans and specifications, and:

- (a) if approved, shall mark "Approved" on the other complete set of plans and return them to the Lot Owner or his designated representative;
- (b) if approved with modifications or conditions, shall mark "Approved As Modified" on the other complete set of plans, shall attach a written statement (and show on the plans if appropriate) the modifications to the plans and/or conditions to the approval, and shall return the plans and statement to the Lot Owner or his designated representative; or
- (c) if disapproved, shall mark "Disapproved" on the other complete set of plans, shall attach a written statement of the reasons for disapproval, which statement shall be signed by a majority of the Committee, and shall return the plans and statement to the Lot Owner or his designated representative.

Any modification of the set of plans and specifications as approved must again be submitted to the Committee for its approval. The Committee's approval or disapproval, as required herein, shall be in writing. In no event shall the Committee give verbal approval of any plans. If the Committee fails to approve or disapprove such plans and specifications within 30 days after the date of submission, written approval of the matters submitted shall not be required and compliance with this Article shall be deemed to have been completed. In case of a dispute about whether the Committee responded within such time period, the person submitting the plans shall have the burden of establishing that the Committee received

the plans. The Committee's receipt of the plans may be established by a signed certified mail receipt.

**6.05. Standards.** The Committee shall use its best efforts to promote and ensure a high level of taste, design, quality, harmony and conformity throughout the Additions consistent with this Declaration. The Committee shall have sole discretion with respect to taste, design and all standards specified herein. One objective of the Committee is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built in the Additions. The Committee's authority shall also include, but not be limited to, the right to limit or prohibit the use of any exterior materials, to require a minimum 6-12 foot roof slope, to specify that chimney flues be covered with brick or masonry or wood, to prohibit the use of lightweight composition roof material, to require that the colors of roofing materials be earth tones, to require the use of specific types of divided light windows, to prohibit or restrict the use of solar or heating panels, to prohibit or restrict the installation of freestanding sporting equipment such as a basketball goal, and generally to require that any plans meet the standards of the existing improvements on neighboring Lots. The Committee may from time to time publish and promulgate bulletins regarding architectural standards, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this Declaration.

**6.06. Termination; Continuation.** The Declarant or the Board of Directors, whichever has authority to appoint the Committee members, shall have the authority to discontinue the existence of the Committee, or to re-establish the Committee, in its reasonable discretion. If the Declarant discontinues the Committee, Board of Directors shall be authorized to re-establish and appoint the Committee members. If there is no Committee, no approval by the Committee shall be required under this Declaration; subsequent construction, improvements, modifications and variations from the standards set forth in this Declaration shall be made in accordance with the general development standards as reflected in the plans, construction materials, landscaping and other matters approved by the Committee during its period of control.

**6.07. Liability of Committee.** The members of the Committee shall have no liability for decisions made by the Committee so long as such decisions are made in good faith and are not arbitrary or capricious. Any errors in or omissions from the plans or the site plan submitted to the Committee shall be the responsibility of the Owner of the Lot to which the improvements relate, and the Committee shall have no obligation to check for errors in or omissions from any such Plans, or to check for such plans compliance with the general provisions of this Declaration, City codes, state statutes or the common laws whether the same relate to Lot lines, building lines, easements or any other issue.

## ARTICLE VII, CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

**7.01. Residential Use.** All Lots shall be used for single family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence per Lot, which residence may not exceed two stories in height, and a private garage as provided below.

**7.02. Single-Family Use.** Each residence may be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than two unrelated persons living and cooking together as a single housekeeping unit, together with any household servants.

**7.03. Garage Required.** Unless otherwise approved in writing by the Committee (as hereinafter defined) each residence shall have an attached or detached (fully enclosed) garage suitable for parking no fewer than two nor more than three standard size automobiles, which garage conforms in design and materials with the main structure. Unless otherwise approved in writing by the Committee, all garages shall be front entry; provided, however, that with the written approval of the Committee, (i) Lots may have a "J" shaped front drive with a side entry garage, or (ii) corner Lots may have a side entry garage, if (iii) a linear wing wall (a) is built of the same materials as the residence, (b) is at least three feet in height, and (c) is of a length approved in writing by the Committee.

**7.04. Restrictions on Resubdivision.** Except for replats undertaken by Declarant, none of the Lots shall- be subdivided into smaller Lots.

**7.05. Driveways.** All driveways shall be surfaced with concrete or similar substance approved by the Committee. In addition to the garage, each Lot shall accommodate offstreet parking for two standard sized automobiles.

**7.06. Uses Specifically Prohibited.**

(a) No temporary dwelling, tent, shack, barn, shop, trailer or mobile, modular or prefabricated home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings or storage of lawn maintenance equipment, which may be placed on a Lot only in places which are not visible from any street and provided the Owner takes reasonable action to screen any such structure from adjoining Lots) shall be permitted on any Lot, except that the builder or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a given Lot during construction of the residence on that Lot. No building material of any kind or character shall be placed or stored upon the Lot until the owner thereof is ready to commence construction of improvements, and then such material shall be placed within the Lot lines of the Lot upon which the improvements are to be erected.

(b) No car, truck, boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment, whether operative or inoperative, may be parked for storage in the driveway or front yard of any dwelling or parked on any public street in the Additions, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely concealed from public view. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity.

(c) Trucks with tonnage in excess of one ton and any vehicle with painted advertisement shall not be permitted to park overnight within the Additions in public view, except those used by a builder during the construction of improvements.

(d) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Additions at any time.

(e) No vehicles or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks and pick-up trucks with attached bed campers that are in operating condition and have current license plates and inspection stickers and are in daily used as motor vehicles on the streets and highways of the State of Texas.

(f) No structure of a temporary character, such as a trailer, basement, tent, shack, barn or other out-building shall be used on any property at any time as a dwelling house; provided, however, that any builder may maintain and occupy model houses, sales offices, portable restrooms and construction trailers during the construction period.

(g) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Additions, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Additions. No derrick or other structure designed for using in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted within the Additions.

(h) No animals, livestock or poultry, of any kind shall be raised, bred or kept on any property in the Additions, except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the community. No more than four pets will be permitted on each Lot. Pets must be restrained or confined on the homeowner's back Lot inside a fenced area or within the house. It is the pet owner's responsibility to keep the Lot clean and free of pet debris. All animals must be properly tagged for identification.

(i) No Lot or other area in the Additions shall be used as a dumping ground for rubbish or a site for the accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage or other waste shall not be kept on a Lot, except in sanitary containers. All incinerators or other equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition. All containers and other facilities for trash disposal must be located and screened in a manner approved by the Committee. Materials incident to construction of improvements may be stored on Lots during construction so long as construction progresses without undue delay.

(j) No individual water supply system shall be permitted in the Additions. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type, other than for backyard cooking, shall require the prior approval of the Committee.

(k) No privy, cesspool, septic tank or other individual sewage disposal system shall be permitted in the Additions.

(l) No garage, garage house or other out-building (except for sales offices and construction trailers, which have been approved in writing by the Committee, during the construction period) shall be occupied or used as a residence by any owner, tenant or other person. Garage doors shall be kept closed at all times except when opened for the moving of vehicles or other items into and out of the garage.

(m) No air-conditioning apparatus shall be installed on the ground in front of a residence or on the roof of any residence (unless screened by a roof structure in a manner approved by the Committee). No air-conditioning apparatus or evaporative cooler shall be attached to any front wall or window of a residence. On each corner Lot, all utility meters, equipment, air conditioning compressors, air conditioning and heating units, and similar items, must be visibly screened to the extent reasonably practicable from the street and from adjoining Lots and must be located in areas acceptable to the committee.

(n) Except with the written permission of the Committee, no antennas, discs or other equipment for receiving or sending sound or video messages shall be permitted in the Additions, except antennas for AM or FM radio reception and UHF and VHF television reception. All antennas shall be located inside the attic of the main residential structure except that, with the written permission of the Committee, one antenna may be permitted to be attached to the roof of the main residential structure and to extend above said roof a maximum of five feet, and one satellite disc or other instrument or structure may be placed in the backyard so long as it is completely screened from view from any street, alley, park or other public area. No use shall be made for any Lot or structure thereon for any other type of radio or television or similar broadcast system.

(o) No Lot or improvement shall be used for business, professional, commercial or manufacturing purposes of any kind. No activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken within the Additions, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales office or model until such builder's last residence in the Additions are sold. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowners' use and enjoyment of their residences and yards.

(p) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three and six feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street curb lines and a line connecting them at points 45 feet from the intersection of the street curb lines, or, in the case of a rounded property corner, from the intersection of the street curb lines as extended. The same sight-line limitations shall apply on any Lot within 30 feet from the intersection of a street curb line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(q) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected thereon.

(r) Within easements on each Lot, no structures, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow within drainage channels or which may obstruct or retard the flow of water through drainage channels or easements.

(s) After Declarant or other developer has graded the Lot, the general grading, slope and drainage plan of a Lot may not be altered without the approval of the City and other appropriate agencies having authority to grant such approval.

(t) No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for rent or sale, or signs used by a builder or Declarant to advertise the Property during the development, construction and sales periods. Declarant or its agents or the Committee shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. All signs are subject to the written approval of the Committee and may be required by the Committee to be moved if, in the sole judgment of the Committee, such signs are found to be inconsistent

with the high standards of the Additions.

(u) The drying of clothes in full public view is prohibited. The Owners and occupants of any Lots at the intersections of streets or adjacent to parks, playgrounds or other facilities where the rear yard is visible to full public view shall construct a drying yard or other suitable enclosure to screen from public view the equipment which is incident to normal residences, such as clothes drying equipment, yard equipment and storage piles.

(v) Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything shall be permitted anywhere within the Additions.

(w) All exterior mechanical equipment, including, without limitation, HVAC equipment, shall be located and screened in a manner approved by the Committee.

(x) No above-ground swimming pools shall be permitted except upon the prior written approval of the Committee.

(y) No carports or portable sheds shall be permitted without the prior written approval of the Committee.

**7.07. Minimum Floor Area.** The total air-conditioned living area of the main residential structure, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory buildings, shall be not less than 1400 square feet or the minimum habitable floor area as specified by the City, whichever is the greater.

**7.08. Building Materials.** The total exterior wall area of each building constructed or placed on a Lot shall be not less than 60% (or such higher percentage as may be required by the City) brick, brick veneer, stone, stone veneer, masonry or other material approved by the Committee. Windows, doors, openings, gables or other areas above the height of the top of standard height first-floor windows are excluded from the calculation of the total exterior wall area. Roofing shall be of a substance acceptable to the City, the FHA, the VA and the Committee.

**7.09. Side Line and Front Line Setback Restrictions.** No dwelling shall be located on any Lot nearer to the front Lot line or nearer to the side Lot line than the minimum setback lines shown on the Plats or required by the City. In any event, without the written consent of the Committee, no building shall be located on any Lot nearer than 20 feet to, nor further than 10 feet from, the front Lot line, or nearer than five feet to any interior side Lot line or nearer than ten feet to the side Lot line adjoining the street on a corner Lot. For the purposes of these covenants, eaves and steps and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

**7.10. Waiver of Front Setback Requirements.** With the written approval of the Committee and subject to meeting all City requirements, any building may be located further back from the front property line of a Lot than provided above or closer to the front property line, where, in the opinion of the Committee, the proposed location of the building will add to the appearance and value of the Lot and will not substantially detract from the appearance of the adjoining Lots.

**7.11. Fences and Retaining Walls.** Unless otherwise approved by the Committee, the Owner shall, simultaneously with the construction of a house, construct or cause to be constructed a fence along

the rear boundary line, along the interior Lot line and along any side of the Lot which is adjacent to a street. Any fence must be constructed of a design, and of masonry, brick, wood or other material, approved by the Committee. No chain link or wire fencing shall be permitted unless expressly approved by the Committee. No fence shall be permitted to extend nearer to any street than the front building line of any residence. No portion of any fence shall extend more than eight feet in height, unless required by City ordinance. The following special fencing requirements apply to those Lots marked with an "F" on Exhibit B attached hereto: (i) all sections of fences at the rear of the Lot, such exact location to be designated by the Committee, shall be five feet in height and shall be constructed of tubular or decorative iron, as specified on Exhibit C attached hereto; (ii) no wood, chain link or other fence materials may be used unless expressly approved by the Committee; (iii) if living screens are used in conjunction with a fence, they must be located within the Lot lines and inside the fence. Notwithstanding the above provisions, Declarant or the Association shall be entitled to construct some or all of the fences on some or all of the Lots marked with an "S" on Exhibit B attached hereto. If Declarant or the Association does construct any of said fences, any fences built by the Owner of a Lot shall tie in and be coordinated with the fences constructed by the Association or Declarant in all respects, including height. Owner shall be responsible for the maintenance and repair of any fences constructed by the Association or Declarant on the Owner's Lot, subject to the rights of the Association as provided in Section 2.04. Owner shall be responsible for the maintenance and repair of any retaining walls constructed by Declarant or an Owner (including the builder) on Owner's Lot and shall be responsible for all damages to other Lots resulting from the alteration or lack of maintenance or repair of such retaining walls.

**7.12. Sidewalks.** All sidewalks shall conform to the City, FHA and VA specifications and regulations; provided, however, if the City allows alternatives for location, material or width of sidewalks, Owner shall conform its construction to the Committee's choice of alternatives.

**7.13. Mailboxes.** Mailboxes shall be constructed of a material and design approved by the Committee.

**7.14. Other Structures and Improvements.** Without the written permission of the Committee, no freestanding structure, pole, other improvement, other than mailboxes, shall be located nearer to any street than the front building line of any residence, or permitted to extend above the height of any fence or wall so as to be visible from any street, alley, park or other public area.

## ARTICLE VIII, EASEMENTS

**8.01. Utility, Fence and Retaining Wall Easements.** Easements for the installation, operation and maintenance, repair, replacement or removal of utilities and drainage facilities are reserved as shown on the Plats and over the rear five feet of each Lot. Easements are also reserved for the installation, operation, maintenance, repair, replacement, removal and ownership of utility service lines from the Lot lines to the residences. Easements are reserved along the fences and retaining walls described in Section 7.11 for the benefit; of Declarant, the Association, the Owner of an adjacent Lot, and the FHA and VA, and their respective employees, representatives and contractors, for the construction, maintenance, repair, replacement or removal of any such fences or retaining walls; provided that this reservation shall not be construed to impose any obligation to construct, maintain, repair, replace or remove any such fences or retaining walls nor to diminish the Owner's obligations under Section 7.11. Declarant reserves the right to make reasonable changes in and additions to the above easements for the purpose of more efficiently and economically installing improvements; provided that the Declarant must obtain the consent of any Lot

Owner on whose Lot the Declarant intends to change, or add to, the easement. The Owner of a Lot shall mow grass and shall keep and maintain in a neat and clean condition any such easement which may traverse a portion of the Lot.

**8.02. Ingress, Egress and Maintenance by the Association.** The Association shall have full rights of ingress and egress (i) at all times over and upon the Common Properties for the purpose of maintaining, improving and performing all other functions of the Association with regard to the Common Properties as set forth herein, and (ii) to the extent reasonable or appropriate, to enforce maintenance of a Lot pursuant to Section 9.02.

**8.03. Police Power Easement.** With respect to the Common Properties and streets, easements and rights-of-way within the Additions, the City of Dallas and all other governmental agencies and authorities shall have full rights of ingress, egress and access for personnel and emergency vehicles for maintenance, police and fire protection and other similar lawful police powers designed to promote the health, safety and general welfare of the residents within the Additions.

ARTICLE IX,  
MAINTENANCE AND ENFORCEMENT

**9.01. Owner Maintenance Requirements.** The Owner and occupant of each Lot shall cultivate an attractive ground cover or grass on all yards visible from the street, shall maintain the yards in a sanitary and attractive manner and shall edge the street curbs that run along the Lot line. Grass, weeds and vegetation on each Lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. No vegetables shall be grown in any yard that faces a street. No Owner shall permit weeds or grass to grow to a height of greater than six inches upon his property. No foundation planting, shrub or other vegetation near the house shall be allowed to grow above the bottom of any window. Each Owner shall maintain the exterior of all buildings, fences and walls (including those described in Section 7.11) and other improvements on his Lot in good condition and repair, and shall replace worn and rotten parts, and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate.

**9.02. Enforcement of Maintenance.** Upon failure of any Owner of a Lot to maintain such Lot as required in Section 9.01: the Board of Directors (or the Committee, if such duty is delegated to it by the Board) may (but is not obligated to) upon a 2/3 vote of its members, have the grass, weeds and vegetation cut as often as in its judgment is appropriate, and may otherwise maintain, repair and restore the Lot and the exterior of the buildings and any other improvements thereon to bring them into compliance with Section 9.01. The Board of Directors may specially assess the individual Lot Owner for the cost of such work. The notice to an Owner of an individual special assessment for maintenance shall have attached an itemized statement of the work performed on the owner's Lot.

**9.03. Enforcement.** Enforcement of these Covenants and Restrictions shall be by a proceeding or proceedings initiated by an owner of any Lot, the Committee or the Board of Directors (acting pursuant to a vote of their respective members) or by the City of Dallas, against any person or persons violating or attempting to violate any Covenant or Restriction contained herein, either to restrain or enjoin the violation or to recover damages for the violation, or both. The Committee and the Board of Directors shall additionally have an election and right, but not an obligation or duty, to enforce any lien

created by this instrument on behalf of the Association. Notwithstanding any provision to the contrary in this Declaration, neither the Association nor the Declarant shall have a duty, obligation or responsibility to enforce any of these Covenants and Restrictions. Inaction by the Association or Declarant in enforcing any of these Covenants and Restrictions shall not limit or impede any Owner's right of enforcement. Failure by any party to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys' fees from the nonprevailing party. Further, and with respect to any litigation brought against the Association or Committee or Board of Directors or any of their members or representatives, arising out of any action, failure to act, or performance or non-performance of duties imposed hereby, the Association, Committee, Board of Directors and/or their members or representatives so sued shall be entitled to recover their reasonable attorneys' fees from the person or entity bringing such action against it or them, unless they shall specifically be adjudicated liable to such claimant.

ARTICLE X,  
GENERAL PROVISIONS

**10.01. Term.** These Covenants and Restrictions shall run with and bind the land within the Additions (and any land hereafter annexed pursuant to Section 2.02) and shall remain in full force and effect for a term of 20 years after this Declaration is recorded. They shall be automatically extended for successive periods of ten years unless amended as provided herein.

**10.02. Amendments.** Except for an annexation, merger or consolidation as provided in section 2.02, this Declaration may be amended only by an instrument: signed by the Owners of not less than 2/3 of the Lots and recorded in the Dallas County Deed Records; provided that as long as Declarant is an Owner of any Lot, this Declaration cannot be amended without the written consent of Declarant. As long as there is a Class B membership, this Declaration cannot be amended without the approval of FHA or VA; provided that as long as no Lot has then been approved for FHA or VA financing, the Owners of not less than 1/2 of the Lots can amend this Declaration without the approval of FHA or VA (subject to Declarant's consent rights), including amendment of the Members' voting rights, it being understood that FHA and VA financing privileges may thereby be revoked.

**10.03. Recorded Plats.** All dedications, restrictions and reservations shown on the Plats are incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by Declarant, conveying Lots in the Additions, whether specifically referred to therein or not.

**10.04. Mortgages.** It is expressly provided that the breach of any of these Covenants and Restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to the same premises or any part thereof encumbered by such mortgage or deed of trust, but these Covenants and Restrictions shall be binding as to Lots acquired by foreclosure, trustee's sale or otherwise, but only as to any breach occurring after such acquisition of title.

**10.05. Proposals of Declarant.** The proposals of the Declarant, as set forth in various provisions hereinabove to develop additional parcels of property for residential purposes, create a Special District, expand the recreational easements and Common Properties and items of a related nature, are proposals and shall not be deemed or construed as promises, contractual commitments or material

representations by- the Declarant. No Owner shall have the right to contest, object, challenge, dispute or in any manner disagree with the Declarant's development (including zoning or rezoning processes) of any real property not subject to this Declaration, on the basis of this Declaration or the master development plan for the Development Area.

**10.06. Notices to Owners.** Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mails, postage prepaid, addressed to the last known address of the person who appears as an Owner/Member on the records of the Association at the time of such mailing. Each Owner shall be responsible for assuring that the Association's records reflect such Owner's current address.

**10.07. Severability.** If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

**10.08. Binding Effect.** Each of the easements, conditions, covenants and restrictions herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Additions; however, such conditions, covenants, restrictions and agreements are not for the benefit of the owner of any land except and in the Additions and land that is hereafter annexed. This instrument, when executed, shall be filed of record in the Deed Records of Dallas County so that each and every owner or purchaser or any portion of the Additions is on notice of the easements, conditions, covenants and restrictions herein contained.

**10.09. Other Authorities.** If other authorities, such as the City or Dallas County, impose more demanding, expensive or restrictive requirements than those set forth herein, the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish the requirements herein.

**10.10. Exhibits.** Exhibits A, B and C which are attached hereto are incorporated herein for all purposes.

EXECUTED this 17<sup>th</sup> day of June, 1988

**NOTICE:** The original signature blocks of this document are not reproduced here but can be viewed by obtaining a copy from the Deed Records of Dallas County or by requesting a copy from the management company of the Association. Reasonable copy fees are associated with these copy requests.