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**EXHIBITS:**

- Exhibit "A" - Property Initially Subject to Declaration
- Exhibit "B" - Property Subject to Annexation
- Exhibit "C" - Tennis Facility Property

**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
HERITAGE LAKES**

STATE OF TEXAS           §  
  §       **KNOW ALL MEN BY THESE PRESENTS:**  
COUNTY OF DENTON     §

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE LAKES** ("Declaration") is made on December 10<sup>th</sup> 1999, by U. S. HOME CORPORATION, a Delaware corporation, whose address is 13111 North Central Expressway, Suite 200, Dallas, Texas 75243 (hereinafter referred to as "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant and Heritage Lakes Joint Venture, a Texas joint venture (hereinafter referred to as "HLJV") each own different tracts of real property in Denton County, Texas, which real property is collectively described on Exhibit "A" attached hereto and incorporated herein by reference; and

**WHEREAS**, Declarant and HLJV desire to create a residential community known as HERITAGE LAKES on the land described on Exhibit "A" and such other land as may be added thereto pursuant to the terms and provisions of this Declaration (collectively, the "Properties").

**NOW, THEREFORE**, Declarant hereby declares, and HLJV hereby consents and agrees as evidenced by its signature hereinbelow, that all of the Properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1.1. "Articles" shall mean and refer to the Articles of Incorporation of the Association filed with the Texas Secretary of State, including any and all amendments or modifications thereto.

Section 1.2. "Association" shall mean and refer to HERITAGE LAKES HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns.

Section 1.3. "Board of Directors" or "Board" shall mean and refer to the Association's Board of Directors.

Section 1.4. "Bylaws" shall mean and refer to the Bylaws of the Association, including any and all amendments or modifications thereto.

Section 1.5. "Class B Control Period" shall mean the period of time during which the Class B Member is entitled to appoint a majority of the members of the Board. The Class B Control Period shall expire on the first to occur of the following:

(a) ninety (90) days after the date as of which one hundred percent (100%) of the Lots permitted by the General Land Plan have been conveyed to Class A Members;

(b) December 31, 2010; or

(c) when, in its discretion, the Class B Member so determines.

Section 1.6. "Common Area" shall mean all real and personal property (including the improvements thereto) now or hereafter owned by the Association for the common use and enjoyment of the Owners, and not otherwise comprising Lots, including, without limitation, the clubhouse and related facilities, the Golf Course, lakes, amenities and roadways.

Section 1.7. "Declarant" shall mean and refer to not only U.S. Home Corporation, a Delaware corporation, but also any successor, alternate or additional Declarant as appointed by U. S. Home Corporation as a successor, alternate or additional Declarant by written instrument, specifically setting forth that such successor, alternate or additional Declarant is to have, together with U. S. Home Corporation, the Declarant's rights, duties, obligations and responsibilities, in whole or in part, for all or any portion of the Properties. The term "Declarant" shall not include any person or party who purchases a Lot from Declarant unless such purchaser is specifically assigned by a separate recorded instrument some or all of the Declarant's rights under this Declaration with regard to the conveyed property.

Section 1.8. "Development" or "Community" shall mean and refer to the Heritage Lakes development, including all of the Properties, Common Areas and Lots.

Section 1.9. "Eligible Mortgage Holder" shall mean those holders of First Mortgages secured by Lots in the Development who have requested notice of certain items as set forth in this Declaration.

Section 1.10. "First Mortgage" shall mean any Mortgage which is not subject to any lien or encumbrance except the taxes or other liens which are given priority by statute or agreement.

Section 1.11. "First Mortgagee" shall mean the beneficiary or holder of a First Mortgage.

Section 1.12. "General Land Plan" shall mean the general plan of development as described in Article X, Section 1(b) of this Declaration, including any amendments or modifications thereto.

Section 1.13. "Golf Course" shall mean that certain real property, and improvements and facilities thereon, located within the Properties, which is operated by the Association as a golf course.

Section 1.14. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. The Lots may contain detached or attached housing.

Section 1.15. "Member" shall mean a person subject to membership in the Association pursuant to Section 3.1.

Section 1.16. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Lot 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. The term "Owner" shall include Declarant and HLJV.

Section 1.17. "Properties" shall mean and refer to that certain real property described on the attached Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association and made subject to this Declaration.

Section 1.18. "Rules and Regulations" shall mean any written rules or regulations adopted, implemented or published by the Association or its Board of Directors at any time and from time to time, as may be amended, with respect to the use and enjoyment of the Common Areas and the conduct of its members and their guests, invitees, agents and contractors within the Properties.

Section 1.19. "Tennis Facility" shall mean that certain real property, and improvements and facilities thereon, if any, located on the property described on Exhibit "C" attached hereto and incorporated herein for all purposes, which property is located adjacent to or in the vicinity of the Properties and which is owned by persons other than the Association and which is intended to be operated as a tennis facility and club.

## ARTICLE II PURPOSE

Section 2.1. Operation, Maintenance and Repair of Common Area. The Declarant, in order to insure that the Common Area and other land for which it is responsible hereunder will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of concern to them, and for such other purposes as set forth herein, has organized the Association. The primary purpose of the Association shall be to operate, maintain and repair the Common Area, including, but not limited to roadways, alleys and retention areas, Golf Course, the surface water management system and related appurtenances such as lakes, retention/detention areas, ditches, swales, creeks or culverts, privacy gates and any improvements thereon; to maintain certain decorative entranceways and features, including those within public rights-of-way to and within the Properties as designated by the Declarant or the Board of Directors including, but not limited to, the entryway at the intersection of Village Boulevard and Lebanon Road and the landscaping fencing and other decorative items along Village Boulevard; to maintain and repair certain hike and bike trails and surrounding landscaping located generally along the easterly boundary line of the Properties between the Development's screening wall and the right-of-way of the Burlington Northern Santa Fe railroad; to pay for the costs of street lighting for the Common Area and streets and roadways, if necessary; to maintain and share in the costs of maintaining and

repairing, among other things, streets, roadways, medians and landscaping located outside the Development, but serving or benefitting such Development, under an agreement with the adjoining landowners or municipalities to pay or share in such costs; and to take such other action as the Association is authorized to take with regard to the Properties pursuant to its Articles and Bylaws, or this Declaration, and with regard to any other areas as designated by the Board of Directors. The Association shall operate, maintain and repair areas referred to in this Section and any other areas designated by Declarant as Common Area, whether or not title to those areas has been or ever will be formally conveyed to the Association.

Section 2.2. Expansion of the Common Area. Additions to the Common Area may be made in accordance with the terms of Article X which provides for additions to the Properties pursuant to the General Land Plan. The Declarant shall not be obligated, however, to make any such additions. The Association must accept any and all additions to the Common Area made by Declarant. The Association, upon request of the Declarant and without further consideration, shall be required to execute any documents necessary to evidence the acceptance of such Common Area. The Declarant has the right, but not the obligation, to add improvements to the Common Area.

Section 2.3. Enforcement of Declaration. Rules and Regulations. In addition to its primary purpose, the purpose of the Association is to maintain architectural control within the Development, in accordance with Article IX of this Declaration, and to maintain the general appearance of the Development through enforcement of the provisions of this Declaration and any rules and regulations promulgated pursuant hereto or to the Articles or Bylaws with respect to the use and maintenance of the Lots or Common Area.

Section 2.4. Use of Recreational Facilities. Each Owner acknowledges that certain recreational facilities including, but not limited to, the Golf Course, may be provided within the Common Area for the use and enjoyment of the Owners, their families, tenants, other occupants of a Lot, and the guests of any such Persons. Each Owner hereby acknowledges that there are risks associated with the use of any such recreational facilities and that ALL USERS OF SUCH FACILITIES ARE SOLELY RESPONSIBLE FOR SUCH RISK. Each Owner, by accepting a deed to a Lot, acknowledges that he or she has not relied upon the representations of Declarant or the Association with respect to the safety of any recreational facilities or other Common Area within the Community.

The Association may, but shall not be obligated to, contract with, employ or otherwise provide, from time to time, a lifeguard or other monitoring personnel to be present at any recreational facility within the Community. Each Owner acknowledges that the presence of such personnel shall not create a duty on the part of Declarant or the Association to provide for, insure or guarantee the safety of any user of the facility. Each Owner acknowledges that the presence of such monitoring personnel shall not in any way alter the risks assumed by each Owner, his or her family members, tenants, other occupants of Owner's Lot and guests of any such Persons, which risks shall continue to be assumed by the user of the recreational facility.

Section 2.5. Limitation of Liability. Each Owner, by acceptance of a deed to a Lot, acknowledges that the use and enjoyment of any Common Area recreational facility involves risk of personal injury or damage to property. Each Owner acknowledges, understands and covenants to

inform its tenants and all occupants of its Lot that the Association, its Board and committees and Declarant are not insurers of personal safety and that each Person using the Common Area assumes all risks of personal injury and loss or damage to property resulting from the use and enjoyment of any recreational facility or other portion of the Common Area. Each Owner agrees that neither the Association, the Board and any committees nor Declarant shall be liable to such Owner or any Person claiming any loss or damage including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other wrong or entitlement to remedy based upon, due to, arising from or otherwise relating to the use of any recreational facility or other portions of the Common Area including, without limitation, any claim arising in whole or in part from the negligence of the Association or the Declarant. THE FOREGOING RELEASE IS INTENDED TO RELEASE THE SPECIFIED PARTIES FROM LIABILITY FOR THEIR OWN NEGLIGENCE.

### ARTICLE III MEMBERSHIP, VOTING RIGHTS AND TURNOVER

Section 3.1. Entitlement to Membership. Each Owner of a Lot shall be a member of the Association, subject to and bound by the Association's Articles, Bylaws, Rules and Regulations and this Declaration. The foregoing does not include persons or entities who hold a leasehold interest or interest merely as security for the performance of an obligation. Ownership, as defined above, shall be the sole qualification for membership. When any Lot is owned of record by two or more persons or other legal entity, all such persons or entities shall be members. An Owner of more than one Lot shall be entitled to one membership for each Lot owned by him or her. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment, and it shall be automatically transferred by conveyance of that Lot. The Declarant shall also be a member so long as it owns one or more Lots.

Section 3.2. Classes of Membership: Votes. The Association shall have two (2) classes of voting membership: Class A and Class B. All votes shall be cast in the manner provided in the Bylaws. When more than one person or entity holds an interest in any Lot, the vote for such Lot shall be exercised as such persons determine, but in no event shall more than the number of votes hereinafter designated be cast with respect to any such Lot, nor shall split votes be permitted with respect to such Lot. The two (2) classes of voting memberships and voting rights related thereto are as follows:

- a. Class A: Class A members shall be all Owners of Lots, except the Class B member, if any. Class A members shall be entitled to one (1) vote for each Class A Lot owned; there shall be only one (1) vote per Lot.
- b. Class B. The sole Class B member shall be the Declarant. The Class B Member shall be entitled to nine (9) votes for each Lot which it owns.
- c. Termination of Class B Membership. The Class B membership shall cease and be converted to Class A membership upon happening of any of the following events, whichever occurs earlier:

(i) when one hundred percent (100%) of the Lots permitted by the General Land Plan have been conveyed to Class A Members; or

(ii) on December 31, 2010; or

(iii) when the Declarant waives in writing its right to Class B membership.

Upon termination of the Class B membership, Declarant shall be a Class A member entitled to one Class A vote for each Lot, if any, which it owns.

**Section 3.3. Turnover Procedure.** Following the termination of the Class B Control Period, Declarant shall cause control of the Association to be turned over to the general membership of the Association ("Turnover"). Within thirty (30) days of the termination of the Class B Control Period, the President of the Association shall call a special meeting of the Board of Directors. At such meeting, the Board of Directors shall set a date for a subsequent meeting of the Board of Directors at which Turnover will occur ("Turnover Meeting"), which meeting shall be at least thirty (30) but no more than sixty (60) days after the special meeting. The Board of Directors shall provide at least thirty (30) days' notice to the members of the date and location of the Turnover Meeting. Prior to the Turnover Meeting, a representative of the Declarant, a representative of the Manager, if any, and one or more of then-existing resident directors shall meet as necessary to cause the turnover of all records associated with the existence, maintenance and operation of the Association. At the Turnover Meeting, the then-existing directors appointed by Declarant shall submit their written resignations and new directors shall be elected, as necessary, to fill the Board in accordance with the Bylaws; provided, however, that pursuant to Article IV of the Bylaws, Declarant shall have the right to appoint at least one (1) member of the Board as long as Declarant owns at least one Lot shown on the General Land Plan. On or before the Turnover Meeting, at Declarant's option, Declarant shall convey to the Association title to all remaining Common Area pursuant to Article VI, Section 7 of this Declaration. From and after the date of Turnover, Declarant shall have no further responsibility or liability associated with the Association, the operations of the Board, the maintenance of any Common Area, or any other matters associated with the Properties. In that regard, at and as of the Turnover Meeting, the Association shall execute and deliver to the Declarant a general release, in form acceptable to Declarant, releasing Declarant from all liability associated with the development, construction, operation and maintenance of the Properties. From and after Turnover, to the extent that any dispute arises between the Association and the Declarant regarding a matter that is allegedly not covered by the release or regarding the release itself, then such dispute, if any, shall be resolved through the dispute resolution procedures provided in Section 14.11.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 4.1. Creation of the Lien and Personal Obligation for Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot, 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 (a) annual assessments or charges, (b) special assessments for capital improvements and unexpected operating costs, and (c) special individual assessments, as applicable, including, but not limited to, reasonable fines imposed in accordance with

this Declaration and the Bylaws, such assessments to be established and collected as hereinafter provided. The annual, special and special individual assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall pass automatically to successors in title. Notwithstanding any provision of this Declaration or the Articles or Bylaws to the contrary, upon the initial acquisition of record title to a Lot by the first Owner thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to Five Hundred Dollars (\$500.00) per Lot. This amount shall be in addition to, not in lieu of, the Annual Assessment levied on the Lot and shall not be considered an advance payment of any portion thereof. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Section 4.2. Purposes of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Properties and for the improvement and maintenance of the Common Area and the carrying out of the purposes and the other responsibilities and obligations of the Association under this Declaration, the Articles, the Bylaws and any maintenance agreement with adjoining land owners or municipalities. Without limiting the generality of the foregoing, such funds may be used for the acquisition, improvement and maintenance of Properties, services and facilities related to the use and enjoyment of the Common Area and other areas located outside the Development, but benefitting the Development, such as entryways, streets and roadways, including the costs of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes and assessments made or levied against the Common Area, the procurement and maintenance of insurance, the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful, and such other needs as may arise.

Section 4.3. Annual Assessments. The annual assessment shall be fixed by the Board based upon a budget prepared annually by the Board which reflects the sources and estimated amount of funds to cover the estimated expenses of the Association (including reserve contributions, if any). The annual assessment shall be levied equally against all Lots which have been made subject to this Declaration. Until January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the initial annual assessment for each Lot shall not exceed \$1,368.00 per Lot. The Board may not increase the annual assessment by more than ten percent (10%) of the prior year's annual assessment without the vote or written consent, or any combination thereof, of at least two-thirds (2/3rds) of the Class A Members who are voting in person or by proxy, at a meeting duly called for this purpose, and the consent of the Class B Member, if any.

Section 4.4. Special Assessments. In addition to the annual assessment authorized above, the Association may levy, from time to time, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, and for other purposes such as covering unanticipated or unbudgeted expenses as designated by the

Association, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Class A members who are voting in person or by proxy at a meeting duly called for this purpose and the consent of the Class B member, if any.

Section 4.5. Special Individual Assessments. The Board shall have the power to levy special individual assessments against a particular Lot as follows:

- a. To cover the costs, including overhead and administrative costs, of providing benefits, items or services to any Lot upon request of the Owner, which benefits, items or services the Board may (but shall not be obligated to) offer from time to time; such assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred;
- b. To cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, the Bylaws or rules of the Association, or costs incurred as a consequence of the conduct of the Owner of the Lot, their licensees, invitees or guests;
- c. For fines levied pursuant to this Declaration and the Bylaws; and
- d. For any other costs or expenses specifically authorized by this Declaration to be levied against a particular Lot.

Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the

Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section.

Section 4.6. Declarant Subsidy. Declarant may, but shall not be obligated to, pay a subsidy to the Association (in addition to any amounts paid by Declarant under Section 4.7 below) in order to reduce the total annual assessment which would otherwise be necessary to be levied against all Lots to cover the estimated expenses of the Association (including reserve contributions, if any). Any such subsidy shall be disclosed as a line item in the income portion of the budget. The subsidy may be treated by the Declarant, in its sole discretion, as a loan from the Declarant to the Association or as an advance against future assessments due or as a contribution.

Section 4.7. Rate of Assessment on Undeveloped Lots. Notwithstanding Section 4.3 above, the rate of annual assessment for a Lot, including Lots owned by the Declarant or HLJV, for which a certificate of occupancy or similar certificate certifying that a dwelling is available for occupancy (a "Certificate of Occupancy") has not been issued by the appropriate governmental agency, shall be fixed at twenty-five percent (25%) of the assessment rate for Lots for which a Certificate of Occupancy has been issued.

Section 4.8. Declarant's Assessment. Notwithstanding any provision of this Declaration or the Articles or Bylaws to the contrary, so long as there is Class B membership in the Association, the Declarant may, on an annual basis, elect either to pay annual assessments on its unsold Lots or pay

the difference between the Association's operating expenses, excluding management fees owed or paid to Declarant, and otherwise to be funded by annual assessments (after applying all income received by the Association from other sources) and the sum of the revenues of the Association from all sources. Upon ninety (90) days notice to the Association, the Declarant may change its election hereunder during the fiscal year. "All sources" includes, but is not limited to, revenues from the operation of Common Areas, capital contributions, accounting service fees, property management fees, guest fees, user fees, and the annual assessments levied against the owners of Lots, other than the Declarant. Such difference, herein called the "deficiency", shall not include any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or special assessments, and Declarant shall not be responsible, in any event, for any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or special assessments. Any sums paid by the Declarant to the Association to fund the "deficiency" or any sums paid by the Declarant to the Association in excess of the annual assessment otherwise due on the Declarant's unsold Lots may be considered by the Declarant to be the payment of a subsidy to the Association pursuant to Section 4.6 of this Article. Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class B membership, Declarant shall pay assessments on its unsold Lots in the same manner as any other Owner.

Section 4.9. Exemption from Assessments. The assessments, charges and liens provided for or created by this Article shall not apply to the Common Area of this Association or any other homeowner association or condominium association, any property dedicated to and accepted for maintenance by a public or governmental authority or agency, any property owned by a public or private utility company or public or governmental body or agency, or any property utilized for commercial purposes, or any property owned by a charitable or non-profit organization exempt from taxation under Section 501(c) of the Internal Revenue Code.

Section 4.10. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots subject to the Declaration on the first day of the month following the month in which the first Lot is conveyed to a Class "A" Member other than HLJV. The first annual assessment due on each Lot shall be adjusted at the time the obligations for assessments commence according to the number of months remaining in the fiscal year at the time the assessments commence on the Lot. The Board shall fix the amount of the annual assessment to be paid against each Lot 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 shall be established by the Board, and may be either on an annual, quarterly or monthly basis. 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. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 4.11. Lien for Assessments. All sums assessed to any Lot pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorney's fees, shall be secured by a continuing lien on such Lot in favor of the Association.

Section 4.12. 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 ten percent (10%) per annum, or \$5.00, whichever is greater, provided that such interest or charge shall not exceed the maximum rate allowed by law. A late fee may also be imposed on any unpaid assessment in an amount determined by the Board from time to time. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien, either judicially or non-judicially, against the Lot. No owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Area, or abandonment of his or her Lot, or for any other reason.

Section 4.13. Foreclosure. Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Lot the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability or priority of the lien. The lien may be foreclosed through judicial or non-judicial foreclosure proceedings in accordance with Tex. Prop. Code Ann. Section 51.002 et seq. (Vernon 1984), as it may be amended (the "Foreclosure Statute"), in like manner for any deed of trust on real property. In connection with the lien created herein, each Owner of a Lot hereby grants to the Association, whether or not it is so expressed in the deed or other conveyance to such Owner, a power of sale to be exercised in accordance with the Foreclosure Statute.

The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same. The Association may sue for unpaid assessments and other charges without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the First Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the First Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be common expenses collectible from Owners of all Lots subject to assessment under this Declaration, including such acquirer, its successors and assigns.

Section 4.14. Homestead. By acceptance of a deed thereto, the Owner and spouse thereof, if married, of each Lot shall be deemed to have waived any exemption from liens created by this Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available for reason of the homestead exemption provisions of Texas law, if for any reason such are applicable. This section is not intended to limit or restrict in any way the lien or rights granted to the Association by this Declaration, but to be construed in its favor.

Section 4.15. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which

became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. This Section may not be amended without the prior written consent of all holders of First Mortgages on Lots.

## ARTICLE V RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 5.1. Responsibilities. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area, and shall keep the same in good, clean and proper condition, order and repair. The Association shall also maintain and care for the other land designated in Article II hereof in the manner therein required. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Common Area and performance of its other obligations hereunder. The Association shall operate and maintain areas designated by Declarant as Common Area, whether or not title to those areas has been formally conveyed to the Association. Notwithstanding the foregoing to the contrary, the Association shall have the right to delegate some or all of its responsibilities under this Section 5.1 pursuant to the terms of Section 5.2 below.

Section 5.2. Manager. The Association may obtain, employ and pay for the services of any entity or person, hereinafter called the "Manager", to assist in managing its affairs and carrying out its responsibilities hereunder to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are furnished or employed directly by the Association or the Manager. The Association shall enter into a management agreement with any such person or entity, which agreement shall delineate the responsibilities and authority of such Manager and the payment of fees to such Manager as compensation for its services. Such fees shall accrue during the entire term of such agreement. However, payment of those fees by the Association may be postponed for any period of time as may be provided in such management agreement therein. No reserve shall be required to be set aside or established by the Association or the Declarant for the future payment of any deferred fees. The initial Manager shall be U. S. Home Corporation, who shall have the right to assign its management obligations and duties to any party or entity, including a subsidiary of the Declarant.

Section 5.3. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Articles or Bylaws.

Section 5.4. Insurance. The Association shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof

shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses included in the Annual Assessments made by the Association.

Section 5.5. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment against all Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Assessments made against such Owner. In the event that the Association is maintaining blanket casualty and fire insurance on the Dwellings, the Association shall repair or replace the same from the insurance proceeds available. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

By virtue of taking title to any Lot, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of any Lot, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry property insurance on his Lot and all structures construed thereon and a liability policy covering damage or injury occurring on the Lot in an amount not less than \$100,000 per occurrence. Each Owner shall furnish a copy of such insurance policy or policies to the Association within ten (10) days of the Association's request for same. The property insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall remain in effect at all times. Authority to adjust losses under policies obtained by an owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within thirty (30) days after receipt by the owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a special individual assessment pursuant to Section 4.5 hereof.

Section 5.6. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, its Articles or Bylaws, or by law and every other right or privilege reasonably implied from the existence of any right or privileges granted herein or therein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE VI RIGHTS TO COMMON AREAS

Section 6.1. Owners' Easements of Enjoyment. Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. The right of the Association from time to time, in accordance with its Bylaws, to establish, modify and rescind reasonable Rules and Regulations regarding use of the Common Areas and Lots, including rules limiting the number of guests who may use the Common Area, all of which taken together allow the Association to make rules governing all of the Properties subject to the Declaration;

b. The right of the Association to impose reasonable membership requirements and charge reasonable admission and other use fees for the use of any recreational facility situated upon the Common Area, including the Golf Course;

c. The right of the Association to suspend the voting rights and right to use of the Common Area by an owner for any period during which any assessment levied under this Declaration against his or her Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its Rules and Regulations; subject to satisfaction of the due process requirements, if any;

d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, transfer or change in use shall be effective unless an instrument agreeing to such dedication or transfer is signed by at least two-thirds (2/3rds) of the Class A Members and by the Declarant, if any;

e. The right of the Association to grant easements as to the Common Areas or any part thereof as provided by the Articles;

f. The right of the Association to otherwise deal with the Common Area as provided by the Articles;

g. The right of the Association to open the Common Area for use by non-members of the Association;

h. The right of the Association to sell, lease or transfer all or any part of the Common Area that has been deeded to the Association, as provided by the Articles; and

i. The right of the Association to enter into agreements with neighboring landowners or municipalities for the maintenance of streets, roadways, medians, landscaping and entryways located outside the Development.

j. The right to permit use of any recreational facility situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board and designate other areas and facilities within the Common Area as open for the use and enjoyment of the public.

Section 6.2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to his or her family's tenants or contract purchasers who reside at the owner's Lot, provided the Owner waives his or her use in writing.

Section 6.3. Prohibition of Certain Activities. No damage to or waste of the Common Area or any part thereof shall be committed by any Owner or any tenant or invitee of any Owner. No noxious, destructive or offensive activity shall be permitted on or in the Common Area or any part thereof, nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance to any other Owner. No owner may maintain, treat, landscape, sod or place or erect any improvement or structure of any kind on the Common Area without prior written approval of the Board of Directors.

Section 6.4. Signs Prohibited. No signs of any kind shall be displayed in or on the Common Area without the prior written consent of the Board. This Section, however, shall not apply to the Declarant.

Section 6.5. Animals. No domestic animals shall be permitted on or in the Common Area at any time except as may be provided in the Rules and Regulations.

Section 6.6. Rules and Regulations. No Owner or other permitted user shall violate the reasonable Rules and Regulations for the use of the Common Area, as the same are from time to time adopted by the Association.

Section 6.7. Title to Common Area. Prior to the sale of the first Lot to a Class A Member, the Declarant shall convey and the Association shall accept title to any Common Area free and clear of encumbrances but subject to such easements, reservations, conditions and restrictions as may then be of record. Declarant may convey to the Association real property and improvements located within the Development at any time and from time to time. The Association shall accept such property free and clear of encumbrances and shall thereafter maintain the property as Common Area at the Association's expense for the benefit of the Members, subject to any restrictions set forth in the deed.

## ARTICLE VII EASEMENTS

Section 7.1. Ingress/Egress. Subject to the Rules and Regulations, a non-exclusive easement for the use and benefit of the Owners and occupants of any Lot, their guests and invitees, shall exist for the pedestrian traffic over, through and across sidewalks, paths, walks and other portions of the Common Area as may be from time to time intended and designated for such purpose and use, and for vehicular and pedestrian over, through and across such portions of the Common Area as may from time to time be paved and intended for such purposes, which easements alone or together with other recorded easements granted by Declarant shall provide reasonable access to the public ways. Nothing herein shall be construed to give or create in any person the right to park upon any portion of the Common Area.

Section 7.2. Utilities. Each Lot and the Common Area shall be subject to the existing easements for public utilities purposes (including, but not limited to, fire and police protection, garbage and trash removal, reclaimed and potable water and sewage systems, electric and gas service, cable television, telephone and irrigation well and pumps) and the utilities and applicable governmental agencies having jurisdiction thereover and their employees and agents shall have the right of access to any Lot or the Common Area in furtherance of such easements. Each Owner shall

be obligated to maintain any easement areas contained within such Owner's Lot, whether or not shown on any recorded plat and whether or not required to be maintained by the utility company holding such easement.

Section 7.3. Future Utility Easements and Agreements. The Declarant reserves the right, for itself and its designee (so long as Declarant or said designee owns Lot) and for the Board, without joinder or consent of any person or entity whatsoever, to grant such additional easements including, but not limited to, reclaimed and potable water and sewage systems, irrigation, wells and pumps, cable television, television antennas, electric, gas, water, fire and police protection, telephone or other utility easement, or to relocate any existing utility easement in any portion of the Properties as the Declarant, its designee, or the Board shall deem necessary or desirable for the proper operation and maintenance of the Properties, or any portion thereof, or for general health and welfare of the owners, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with these find any Lot for permitted purposes. In addition, Declarant reserves the right, for itself and its designee (so long as Declarant or said designee owns a Lot), without the joinder or consent of any person or entity whatsoever, to enter into license, marketing, shared facilities or other agreements with utility provides, operators or owners for the provision of any such utilities to the Properties. Declarant shall be entitled to receive and continue to receive all royalties, fees, compensation or other revenues provided for in such license, marketing, shared facilities or other agreements entered into by Declarant, whether accruing or paid prior to or after the termination of the Class B Control Period pursuant to Section 3.3 hereof, and the Association shall not be entitled thereto.

Section 7.4. Declarant's Ingress-Egress. Declarant and HLJV retain for themselves, their successors in interest, agents, employees and assigns, a non-exclusive easement for ingress and egress over and across all streets, roadways, Common Area, driveways and walkways that may from time to time exist within the Properties.

Section 7.5. Encroachments. All of the properties and all of the Lots therein shall be and are singularly and collectively subject to easements from encroachments which now or hereafter exist or become into being, caused by settlement or movement of the any structure or other improvements on the Properties, or caused by inaccuracies in construction or reconstruction of any such structure or such improvements upon the Properties or encroachment caused by the intentional or unintentional placement of utility meters and related devices, all of which encroachment shall be permitted to remain undisturbed, and such easements shall and do exist and shall continue as valid easements so long as such encroachments exist. A valid easement for the maintenance of such encroachments is herein created so long as such encroachments exist.

Section 7.6. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in this Declaration, the Association shall have the right, but shall not be obligated, to enter upon any property within the Development for emergency, security and safety reasons, which right may be exercised by the manager and all policemen, fireman, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Association to enter to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

**Section 7.7. Easements to Serve Additional Property.** The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access and development of property located outside the Development, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns, shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

### ARTICLE VIII USE RESTRICTIONS

**Section 8.1. Residential Use.** No Lot may be used for any purpose other than as and for residential purposes except that a Resident may conduct business activities within a Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Development; (c) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers of other business invitees or door-to-door solicitation of residents of the Development; and (d) the business activity is consistent with the residential character of the Development and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Development, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provisions of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Lot shall not be considered a business or trade within the meaning of this subsection.

This restriction shall not apply to any activity conducted by Declarant with respect to its development and sale of Lots or its use of any Lots which it owns within the Development. Notwithstanding the foregoing restrictions, real estate brokers, owners and their agents may show Lots, for sale or lease, and every person, firm or corporation purchasing a Lot recognizes that the Declarant, its agents and designated assigns, shall have the right to (a) use Lots, and improvements erected thereon, for sales offices, field construction offices, storage facilities and general business offices, (b) maintain fluorescent-lighted or spotlighted model homes which are open to the public for inspection seven (7) days per week for such hours as the Declarant deems appropriate or necessary, and (c) conduct any other activities on Lots to benefit sales efforts.

**Section 8.2. Lot Upkeep.** After acquiring title from Declarant, all Owners of Lots, whether or not improved by a dwelling, shall, as a minimum, keep the grass regularly cut and all trash and debris removed. All Lots shall at all times be kept in a well-maintained, healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, rubbish, debris, trash, junk or other waste matter.

**Section 8.3. Maintenance of Improvements.** Each Owner shall maintain in good condition and repair all improvements constructed upon his or her Lot including, without limitation, the residential dwelling.

**Section 8.4. Lawns.** Each Lot acquired from the Declarant on which there is a completed dwelling shall be maintained in a good and neat condition and repair by the Owner thereof. In this context, the word "Lot" shall include that portion of the property from the boundary of the Lot to the adjacent paved road surface. "Neat" shall require, at a minimum, that the lawn be regularly cut and fertilized, that mulched areas be regularly remulched and kept weeded and that bushes, hedges and other vegetation be regularly trimmed so that its appearance is in harmony with the neighborhood. All Lots must have grassed front and side lawns and grassed or mulched rear lawns, unless otherwise specifically approved, in writing, by the Committee. Rear yards must be installed within ninety (90) days from the day of closing title to any Lot, unless specifically approved, in writing, by the Committee.

**Section 8.5. Failure to Maintain.** If the Owner of a Lot shall fail to maintain his or her Lot as required hereby, either the Declarant or the Association, after giving such Owner at least ten (10) days written notice, shall be authorized to undertake such maintenance at the Owner's expense. Entry upon an Owner's Lot for such purpose shall not constitute a trespass. If such maintenance is undertaken by the Association or Declarant, the charge therefor shall be secured by a lien on the Lot and added to and become part of the Lot assessment next due and payable by the Owner.

**Section 8.6. Use of Accessory Structures.** No tent, shack, barn, metal utility shed or other buildings, other than the dwelling and its required garage, shall at any time be placed or erected on any Lot and used temporarily or permanently as a residence or for any other purpose, except temporary buildings, offices or facilities used by Declarant, builders or contractors, with the written approval of the Declarant. A utility shed that conforms to the aesthetics of the main Residence and has been approved by the Committee may be erected on a Lot by an Owner.

**Section 8.7. Nuisance.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No automobile or other vehicle mechanical repairs or like activity shall be conducted on any Lot other than in a garage and concealed from public view.

**Section 8.8. Walls, Fences and Hedges.**

a. No fence, wall or hedge shall be erected, placed or altered on any Lot without the prior written approval of the Committee and the design of and materials used in the construction of fences shall be subject to the prior written approval of the Committee. The Committee will strive to protect and preserve lake and other natural views of the Owners. No fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line

indicated on the Plat, unless otherwise permitted by the Committee and in accordance with the requirements of the City of Frisco. All wooden fences shall: (i) be of cedar or better wood materials (except structural components); (ii) have a minimum height of six (6) feet and a maximum of eight (8) feet; (iii) have flat topped slats measuring between four (4) and six (6) inches wide; (iv) have vertically installed slats; and (v) be neither painted nor stained; provided, however, that a clear or neutral stain or sealer, that does not conflict with the cosmetic surroundings, may be used. No fence, wall or hedge shall exceed eight (8) feet in height unless otherwise specifically approved by the Committee. Chain link fencing on tennis courts and in other locations not visible from the streets or the Common Area will only be allowed with the express written approval of the Committee. All service and sanitation facilities, clothes lines, wood piles, tool sheds and air conditioning equipment must be enclosed within fences, walls and/or landscaping so as not to be visible from the adjoining Lots and residential streets. Upon submission of a written request, the Committee may, from time to time, at its sole discretion, permit the Owners to construct fences or walls which are in variance with the provisions of this paragraph where, in the opinion of the Committee, the fence or wall is an integral part of the home. Fencing shall be constructed in accordance with the following restrictions based on the location of such fencing:

(i) Front Yard Fencing. Fencing will be allowed to extend from the perimeter of a dwelling to the side or rear property lines; provided, however, in connection with fencing from the perimeter of a dwelling to the side property lines, such fence shall be set back at least ten feet (10') from the primary perimeter dwelling wall facing the street. All fencing shall be of construction identical to type of construction used on the residence located on such Lot or of wood material, provided that such wood fence is erected with the good side facing out, is of cedar material or better, has slats four (4) to eight (8) inches wide which are installed vertically only (not horizontally or diagonally), is no higher than eight (8) feet, and is not painted or stained (other than as clear or neutral stain) on any surface facing a street, Common Properties, or adjoining Lot.

(ii) Side and Rear Yard Fencing. Fencing between Lots shall be of wood material, provided that such wood fence is erected with the good side facing out, is of cedar material or better, has slats four (4) to eight (8) inches wide which are installed vertically only (not horizontally or diagonally), is no higher than eight (8) feet, and is not painted or stained (other than a clear or neutral stain) on any surface facing a street, Common Properties, or adjoining Lot.

b. Trash Receptacles and Collection. Each Owner shall make or cause to be made appropriate arrangements with the City of Frisco, Texas, for collection and removal of garbage and trash on a regular basis. If the Owner fails to make such provisions, the Association may do so and assess the costs thereof to the Owner. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the City of Frisco, Texas, and/or the Association, in connection with the storage and removal of trash and garbage. All Lots shall at all times be kept in a well-maintained, healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, rubbish, debris, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal,

plastic or masonry materials, with tightly-fitting lids, or other containers approved by the City of Frisco, Texas, and which shall be maintained in a clean and sanitary condition. All garbage cans and similar receptacles and other garbage containers shall be kept inside the garage at all times except that they may be placed on the street curb or alley abutting his Lot on those days designated by the City of Frisco, Texas, as trash collection days; provided, however, such trash must be kept neatly contained in a sanitary, tightly sealed metal, plastic or other container and are removed from the street/alley within twelve (12) hours following such collection. On Lots served by an alley, garbage containers shall be constructed of a material that is harmonious with the exterior of the home. No Lot shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which the materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot.

Section 8.9. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on or in any Lot other than cats, dogs and other household pets, provided they are not kept, bred or maintained for any commercial purposes or become a nuisance to the neighborhood. No person owning or in custody of an animal shall allow it to stray or go upon another Lot without the consent of the Owner of such Lot. Dogs shall be on a leash when outside the Owner's Lot. Owners shall be required to clean up his or her dog's defecation on the Common Area. The Board may adopt reasonable rules and regulations governing the size, weight and keeping of animals, which rules may include the adoption of fines for violations thereof.

Section 8.10. Signs: Resale. No signs shall be displayed on Lots with the exception of a maximum of one (1) "For Sale" or "For Rent" sign not exceeding 24 inches by 36 inches in size. Notwithstanding anything to the contrary herein contained, Declarant shall have the exclusive right to maintain signs of any type and size on any portions of the Properties it owns and on the Common Area in connection with its development and sale of Lots.

Section 8.11. Antennae. No television, radio or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcast or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association shall be empowered to adopt rules governing the type of antennae that are permissible hereunder and establish reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that reception of an acceptable signal would not be impaired and the cost of installation would not be unreasonably increased, an antenna permissible pursuant to rules of the Association may only be installed in a side or rear yard location, not visible from the street or neighboring property, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations, including zoning, land use and building regulations.

**Section 8.12. Vehicle Parking.** No vehicle shall be parked within the Properties except on a paved parking surface, driveway or within a garage. No trucks or vehicles that are primarily used for commercial purposes, other than those temporarily present on business, nor any trailers, may be parked within the Properties other than enclosed garages or other areas concealed from public view. Boats, boat trailers, campers, travel trailers, mobile homes, recreational vehicles and the like, and any vehicles not in operable condition and validly licensed, shall only be permitted to be kept within the Properties if such are kept inside a garage and concealed from public view. Visitors and guests may park on the street for no more than twenty-four (24) hours. The Board may adopt reasonable rules and regulations governing the parking and operation of vehicles on the Property, which rules may include the towing of vehicles parked in violation of this Declaration or the rules and the levying of reasonable fines for such violations.

**Section 8.13. Clotheslines, Garbage Cans, Tanks, etc.** Permanent clotheslines and clothesline supports are not permitted. All garbage cans, above-ground storage tanks, mechanical equipment and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Lot.

**Section 8.14. Landscaping and Irrigation System.** No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, ponds, lakes, wetlands or other surface water within the Properties shall be installed, constructed or operated within the Properties unless prior written approval has been received from the Board or its designee. However, the Declarant and the Association shall have the right to draw water from such sources for the purpose of irrigating the Common Area. All private wells shall be subject to approval in accordance with Article IX of this Declaration.

Any and all plans for the landscaping of front yards and of side yards not enclosed by solid fencing, including alterations, changes or additions thereto, shall include a minimum of two (2) three inch (3") caliper trees situated in the front yard or in the area between the front curb and the sidewalk adjacent to such Lot (provided, however, all corner Lots shall include a minimum of four (4) four inch (4") caliper trees and shall otherwise be subject to the written approval of the Committee. For approved trees, a Lot Owner shall refer to the list of approved trees for the city right-of-way as published by the City of Frisco. Ornamental trees such as Bradford Pear and Crape Myrtle are encouraged, however, they do not satisfy the tree requirement as outlined in this paragraph. Each Lot on which a residential dwelling is constructed shall have and contain an underground water sprinkler system for the purpose of providing sufficient water to all front yards and all side yards not enclosed by solid fencing. Weather permitting, each Lot shall be fully landscaped within one hundred twenty (120) days after the date the residence thereon is ninety-five percent (95%) complete. Each Owner shall be responsible for maintaining his own lawn and landscaping in a healthy and attractive condition.

**Section 8.15. Lighting.** Except for traditional holiday decorative lights, which may be displayed for one (1) month prior to and one (1) week after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Article IX of this Declaration.

**Section 8.16. Artificial Lakes, Exterior Sculpture and Similar Items.** No artificial vegetation or permanent flagpoles other than flagpoles which display the flag of the United States of America, the official State of Texas flag or the U.S. Home flag shall be permitted on the exterior of any portion of the Properties. No exterior sculpture, fountains, flags and temporary flagpoles which portray holidays and seasonal observances, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance with Article IX of this Declaration.

**Section 8.17 Wetlands, Lakes and Other Water Bodies.** Except for recreational fishing from the shoreline, all wetlands, lakes, ponds and streams within the Properties, if any, shall be aesthetic amenities only and no other use thereof, including, without limitation, skiing, swimming, boating, playing or use of personal flotation devices, shall be permitted without the prior approval of the Board. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds or streams within the Properties. No docks, piers or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed by the Declarant or the Association. Portions of the lakes have been designated as wetlands as such term is defined by the U.S. Army Corps of Engineers and must be maintained as such, and cannot be destroyed, altered or maintained in such a way as to change the environmental value without the prior written approval of the U.S. Army Corps of Engineers.

**Section 8.18. Playground and Recreational Equipment.** No jungle gyms, swing sets, basketball hoops and backboards, similar playground equipment, tennis courts or such other recreational equipment shall be erected or installed on any Lot that has exposure to the Common Area without prior written approval in accordance with Article IX hereof. Any basketball hoops or backboards permitted by the Board or its designee must not be visible from the 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. The Association shall not be held liable to any Person for any claim, damage or injury occurring thereon or related to use thereof.

**Section 8.19. Single Family Occupancy.** No Lot shall be occupied by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption or marriage living with not more than one person who is not so related as a single household unit, or no more than two persons who are not so related living together as a single household unit, and the household employees of either such household unit; provided, however, that nothing herein shall be interpreted to restrict the ability of one or more adults meeting the definition of a single family from residing with any number of persons under the age of eighteen (18) over whom such persons have legal authority.

**Section 8.20. Minimum Floor Space.** All floor areas referenced below are for the air-conditioned floor areas, exclusive of porches, garages, or breezeways attached to the main dwelling. Each dwelling constructed on any Lot in the subdivision shall contain a minimum of one thousand five hundred (1,500) square feet, but in no event shall the residence initially constructed on any Lot contain in excess of 4,000 square feet.

Section 8.21. Access. No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot except as expressly provided on the Plat, or otherwise approved in writing by the Committee.

Section 8.22. Dam Operation. The Declarant has created a series of dams along the existing creeks within the Development. The dams are located in the Common Area and, as such, will be owned and maintained by the Association. The Declarant has prepared a maintenance plan entitled "Dam Operation and Maintenance Plan for Recreational Lakes at Lakes on Legacy and Heritage Lakes" dated February 17, 1999, as prepared by Jones & Boyd, Inc., 16800 Dallas Parkway, Suite 240, Dallas, Texas 75248. The maintenance manual sets forth the inspection and maintenance criteria of the dam structures and shall become the responsibility of the Association to comply with the inspection and reporting requirements.

Section 8.23 Drainage. Neither the Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on a Lot has been substantially completed, the Lot will be graded so that surface water will generally flow to streets, alleys, drainage easements, or Common Area, and in conformity with the general drainage plans for the subdivision.

Section 8.24 Utilities. Each residence situated on a Lot shall be connected to the water and sewer lines as soon as practicable after same are available at the Lot line. No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot. However, portable toilets will be required during the building construction. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type (except portable gas grills), shall require the prior written approval of the Committee, and, if so approved, the Committee may require that such tank, bottle or cylinder be installed underground. Any control boxes, valves, connections, utility risers or refilling or refueling devices shall be completely landscaped with shrubbery so as to obscure their visibility from the streets within or adjoining the Properties or from any other Lot.

Section 8.25 Construction Requirements.

a. The exterior surface of all residential dwellings shall be constructed of glass, wood, clay brick, stone, stucco, or other materials approved by the Committee. It is specifically required that the exterior wall area of each residence located within the Properties shall not have less than seventy-five percent (75%) brick, stone or stucco construction. All chimney vent stacks will be enclosed within the chimney structure and sheathed with exterior materials that are predominately used on the exterior of the home. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, stone or stucco wall area of a residence. The use of various roofing materials within the subdivision shall be permitted, however, no roofing material shall be used without first obtaining the Committee's written approval of same and no composition roof construction (other than with 25 year minimum, high quality, heavy weight composition or better) will be allowed on any dwelling. The Committee will only approve roofing materials which are of a quality consistent with the external design, color and appearance of other

improvements within the subdivision. The roof pitch of any structure shall be 8" x 12" minimum. Any deviation of roof pitch may be allowed based on architectural merit by the Committee. Exterior paint and stain colors shall be subject to the written approval of the Committee.

b. Construction of a new single family dwelling on any Lot shall include the placement of a four (4) foot wide concrete sidewalk across the entire frontage of such Lot. Such sidewalks shall be constructed in conformity with the then existing ordinances, standards and codes promulgated by the City of Frisco.

c. Each residential structure shall have installed on the outside wall thereof a service riser conduit, the location and length of such conduit to be subject to the written approval of the Committee; provided, however, no such conduit shall be visible from public streets, Common Properties or adjoining Lots.

d. No above ground-level swimming pools shall be installed on any Lot. This provision is not intended to prohibit inflatable pools, no greater than twenty-four inches (24") in depth, typically used by toddlers.

e. No projections of any type shall be placed or permitted to remain above the roof of any residential building with the exception of one or more chimneys and one or more vent stacks without the written permission of the Committee.

f. Basketball backboards may be installed above the garage doors and as freestanding goals, provided any such basketball backboard or basketball goal is located at least ten (10) feet behind the front building line of such Lot. Any other locations will require the express written approval of the Architectural Control Committee.

Section 8.26 Garages and Servants Quarters. Each residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles. Detached garages, servants quarters, and storage rooms must be approved in writing by the Committee. No carport shall be built, placed, constructed or reconstructed on any Lot. As used herein, the term "carport" shall not be deemed to include a porte cochere. No garage shall ever be changed, altered, reconstructed or otherwise converted for any purpose inconsistent with the garaging of automobiles, unless a new garage is constructed to meet the requirements of this Section. Porte cocheres must be approved in writing by the Committee.

Section 8.27 Window Coolers. No window or wall type air-conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any residential building on any part of the Properties.

Section 8.28 Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any Lot. No trailer, mobile, modular or prefabricated home, tent (other than party rental tents which shall in no event remain erected for more than 48 hours), shack, or barn shall be placed on any Lot, either temporarily or permanently, and no residence, house, garage, shed or other structure appurtenant thereto shall be moved upon any Lot from another location, except for a sale, pre-sale or construction trailer; provided, however, that Declarant reserves the exclusive

right to erect, place and maintain, and to permit builders to erect, place and maintain such facilities in and upon the Properties as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and selling of residences and constructing other improvements on the Properties. Such facilities may include, but not necessarily be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales office. Declarant and builders shall also have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with the construction and sales operations on the Properties, but in no event shall a builder have such right for a period in excess of one (1) year after the date of substantial completion of its last residence on the Properties. Any truck, bus, boat, boat trailer, trailer, mobile home, campmobile, camper or any vehicle other than conventional automobile shall, if brought within the Properties, be stored, placed or parked within the garage of the appropriate Owner or concealed from the view from adjoining Lots, Common Properties, or public streets, unless approved in writing by the Committee.

Section 8.29 Removal of Dirt. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon. Minimum finished floor elevations, if any, established on the Plat shall be maintained.

Section 8.30 Drilling and Mining Operations. No oil drilling, water drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, natural gas or water shall be erected, maintained or permitted upon any Lot.

Section 8.31 Duty of Maintenance.

a. Owners and occupants (including lessees) of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep the Lot so owned or occupied, including buildings, improvements, grounds or drainage easements or other rights-of-way incident thereto, and vacant land, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (i) Prompt removal of all litter, trash, refuse and waste;
- (ii) Lawn mowing and edging of all curbs and edgeways on regular basis;
- (iii) Tree and shrub pruning;
- (iv) Watering landscaped areas in a regular manner so as to maintain harmony with the overall standards of the subdivision;
- (v) Keeping the exterior lighting and maintenance facilities in working order;
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive;
- (vii) Keeping parking areas, driveways and curbs in good repair;

- (viii) Complying with all government health and police requirements;
- (ix) Repair of exterior damages to improvements;
- (x) Cleaning of landscaped areas lying between street curbs and Lot lines, unless such streets or landscaped areas are expressly designated to be Common Properties maintained by applicable governmental authorities or the Association; and
- (xi) Repainting of improvements.

b. If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the repairs and maintenance or make arrangements with the Association for making the repairs and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such repair and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person.

c. Notwithstanding the provisions of Section 8.31(b) above, if, at any time, an Owner shall fail to control weeds, grass and/or other unsightly growth, the Association shall have the authority and right to go onto the Lot of such Owner for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a sum up to One Hundred Fifty and No/100 Dollars (\$150.00) for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Lot exceed six inches (6") in height, the Association shall have the right and authority to mow and clean the Lot, as aforesaid.

d. The Owners and occupants (including lessees) of any Lot on which work is performed pursuant to Section 8.31(b) and (c) above shall, jointly and severally, be liable for the cost of such work [such costs constituting a special individual assessment as specified in Section 4.5(b) hereof] and shall promptly reimburse the Association for such cost. If such Owner or occupant shall fail to reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all said persons, jointly and severally, and shall constitute a lien against the Lot on which said work was performed. Such lien shall have the same attributes as the lien for assessments and special assessments set forth in this Declaration, and the Association shall have the identical powers and rights in all respects, including but not limited to the right of foreclosure.

## ARTICLE IX ARCHITECTURAL CONTROL

Section 9.1. General. No exterior change or modification shall be made to any residential dwelling constructed by the Declarant on a Lot, nor shall any buildings, fences, walls, structures or other improvements be added to any Lot after it has been conveyed by the Declarant, until the plans

and specifications showing the nature, kind, shape, height, materials and color to be used on the exterior, and location of the same, shall have been submitted to and approved in writing by the Board of Directors, or by an architectural committee (the "Committee") composed of three (3) or more representatives appointed by the Board. The Board may require payment of a reasonable fee in connection with such approval. No approval shall be given by the Board of Directors or its designated committee pursuant to the provisions of this Article unless it determines, in its sole discretion, that such approval shall (i) assure harmony of external design, materials and location in relation to surrounding buildings and topography within the Properties, (ii) protect and conserve the value and desirability of the Properties as a residential community, (iii) be consistent with the provisions of this Declaration, and (iv) conform to or enhance, in the sole opinion of the Board or its designated committee, the aesthetic appearance of the Properties. Neither the Association, the Board nor any member of the Board or its designated committee shall have any liability to anyone by reason of any acts or action taken in good faith pursuant to this Article. The Board shall have the right and power to adopt, amend and promulgate design guidelines and regulations (the "Design Guidelines") in order to effectuate the purpose of this Article. This Article shall not apply to activities of the Declarant, nor to improvements to the Common Area by or on behalf of the Association.

Section 9.2 Procedures. No Work shall commence on any Lot until an application for approval has been submitted to and approved by the Committee. Such application shall be in the form required by the Committee and shall include plans and specifications (the "Plans") showing the site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor, and other features of proposed construction, as applicable. The Committee may require the submission of such additional information as it deems necessary to consider any application. The Plans shall be in such form and shall contain such information as may reasonably be required pursuant to the Design Guidelines. The Committee may permit a set of plans to be submitted for consideration and approval with respect to multiple Lots at one time.

In reviewing each submission, the Committee may consider (but shall not be limited to consideration of) visual and environmental impact, ecological compatibility, natural platforms and finished grade elevations, the quality of workmanship and design, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life, architectural merit and compliance with the general intent of the Design Guidelines and the general scheme of development for the Community. Decisions of the Committee may be based on purely aesthetic considerations.

A schedule and procedures outlining the Plans to be submitted at specific times shall be established by the Committee and may be set forth in the Design Guidelines. The Committee shall, within thirty (30) days after receipt of each required submission of Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the disapproval of Plans, specifying the segments or features of the Plans which are objectionable and suggestions, if any, for the curing of such objections. In the event the Committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, the applicant may give the Committee written notice of such failure to respond, stating that unless the Committee responds within ten (10) days of receipt

of such notice, approval shall be deemed granted. However, no Plans, whether expressly approved or deemed approved pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing.

Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed and postage prepaid, is deposited with the U. S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice also shall be sufficient and shall be deemed to have been given at the time of delivery.

All Work shall be completed within one (1) year of commencement of construction or such shorter period as the Committee may specify in the notice of approval, unless completion within such time is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the Committee.

Section 9.3. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board will change from time to time and that interpretation, application and enforcement of this Declaration may vary accordingly. Approval of proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

Section 9.4. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and not for engineering, structural design or quality of materials. Neither the Architectural Review Committee nor the Declarant shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for reviewing drainage plans or ensuring the effectiveness thereof, nor for ensuring compliance with building codes and other governmental requirements. Each Owner is responsible for obtaining appropriate building permits from the City of Frisco. The issuance of a building permit does not ensure approval from the Committee nor does the Committee's approval of an application ensure compliance with the applicable building requirements of the City of Frisco. Neither the Declarant, the Association, the Board, the Architectural Review Committee, nor any member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot, nor for any defect in any structure constructed from approved Plans.

Neither the Declarant, the Association, the Architectural Review Committee, the Board nor the officers, directors, members, employees and agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits Plans and every Owner agrees that he will not bring any action or suit against the Declarant, the Association, the Architectural Review Committee, the Board or the officers, directors, members, employees and agents of any of them, to recover any such damages and hereby releases, promises, quitclaims and covenants not to sue for all claims,

demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

Section 9.5. Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right, in addition to any other remedy provided herein for the enforcement of this Declaration, to enter the property, remove the violation and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a special individual assessment in accordance with Section 4.5 of this Declaration.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article may be excluded by the Board from further construction activity within the Development. In such event, neither the Association, its officers, nor its directors shall be held liable to any Person for exercising the rights granted by this Article.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Architectural Review Committee.

Section 9.6. Notice of Violation. To evidence any violation of this Declaration by any Owner, the Board of Directors may file, but is not required to file, in the deed records of Denton County, Texas, a notice of violation setting forth (i) the violation, (ii) the name of the Owner and Lot, and (iii) a sufficient legal description of the Lot. Such notice shall be signed and acknowledged by an officer or duly authorized agent or attorney of the Association. The cost of preparing and recording such notice shall be assessed as a special individual assessment against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing pursuant to Section 4.5 hereof.

## ARTICLE X ADDITIONAL PROPERTY

### Section 10.1. Additions Generally.

a. Additions to the Properties. Additional land may be brought within the jurisdiction and control of the Association in the manner specified in Section 10.2 of this Article and made subject to all the terms of this Declaration as if part of the Properties initially included within the terms hereof, provided such is done within twenty-five (25) years from the date this instrument is recorded. Notwithstanding the foregoing, however, under no circumstances shall the Declarant be required to make such additions, and until such time as such additions are made to the Properties in the manner hereinafter set forth, no other real property owned by the Declarant or any other person or party whomsoever, other than the Properties, shall in any way be affected by or become subject to the

Declaration. All additional land which, pursuant to this Article, is brought within the jurisdiction and control of the Association and made subject to the Declaration shall thereupon and thereafter be included within the term "Properties" as used in this Declaration. Notwithstanding anything contained in this Section 10.1, the Declarant neither commits to nor warrants or represents that any such additional development shall occur.

b. General Land Plan. The present general plan of development shall not bind the Declarant to make any such additions or adhere to the general plan of development. Such general plan of development may be amended or modified by the Declarant, in whole or in part, at any time, or discontinued. As used herein, the term "General Land Plan" shall mean such general plan of development, together with any amendments or modifications thereof hereafter made.

Section 10.2. Procedure for Making Additions to the Properties. Additions to the Properties may be made, and thereby become subject to this Declaration, by, and only by, one of the following procedures.

a. Additions by Declarant. The Declarant shall have the right from time to time, whether prior to or after termination of the Class B Control Period, for so long as the Declarant owns a Lot described in Exhibits "A" or "B", in its discretion and without need for consent or approval by either the Association or its members, to bring within the jurisdiction and control of the Association and make subject to the scheme of this Declaration, any additional land described in Exhibit "B" attached hereto and incorporated herein by reference. In the Declarant's sole discretion, portions of this land may be designated as Common Area. The additions authorized under this subsection shall be made by the Declarant filing of record a Supplement to Declaration of Covenants, Conditions and Restrictions with respect to the additional land. Such Supplement need only be executed by the Declarant and shall not require the joinder or consent of the Association or its members. Such Supplement may contain 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 added land or permitted use thereof. In no event, however, shall such Supplement revoke, modify or add to the covenants established by this Declaration as such affect the land described on the attached Exhibit "A".

b. Mergers. Upon a merger or consolidation of the Association with another non-profit corporation as provided in its articles, its property (whether real or person or mixed), rights and obligations may, by operation of law, be transferred to the surviving or consolidated corporation or, alternatively, the property, rights and obligations of the other non-profit corporation may, by operation of law, be added to the property, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Declaration within the Properties together with the covenants and restrictions established upon any other land as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration with the Properties.

Section 10.3. General Provisions Regarding Additions to the Properties.

a. Regardless of which of the foregoing methods is used to add additional land to that subject to the terms and provisions of this Declaration, no addition shall revoke or diminish the rights of the Owners of the Properties to the utilization of the Common Area as established hereunder except to grant to the Owners of the land being added to the Properties the right to use the Common Area according to the terms and conditions as established hereunder, and the right to vote and be assessed as hereinafter provided.

b. Nothing contained in this Article shall obligate the Declarant to make additions to the Properties.

Section 10.4. Voting Rights of the Declarant as to Additions to the Properties. The Declarant shall have no voting rights as to the land added to the Properties or any portion thereof until such land or portion thereof is actually added to the Properties in accordance with the provisions of this Article. Upon such land or portion thereof being added to the Properties, the Declarant shall have the Class B voting rights as to the Lots thereof as is provided by Section 3.2 of this Declaration.

Section 10.5. Assessment Obligation of the Declarant as to Additions to the Properties. The Declarant shall have no assessment obligation as to the land or any portion thereof added to the Properties until such land or portion thereof is actually added to the Properties in accordance with the provisions of this Article. At such time, the Declarant shall have, but only as to such of the additional land as is added, the assessment obligation set forth in Article III of this Declaration.

Section 10.6. Voting Rights of Owners Other than the Declarant as to Additions to the Properties. Any Lots of land added to the Properties which are owned by Owners other than the Declarant, or its assignees by separate written document, shall be entitled to voting rights identical to those granted by Section 3.2 of this Declaration to other Class A Members.

Section 10.7. Assessment obligation of Owners Other Than the Declarant as to Additions to the Properties. Any Lots added to the Properties which are owned by Owners other than the Declarant, or its assignees by separate written document, shall be subject to assessments, both annual, special and otherwise in accordance with the terms and provisions of the Declaration in the same manner as all other Class A Members within the Properties.

ARTICLE XI  
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of First Mortgages on Lots in the Development. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 11.1. Notices of Action. An institutional holder, insurer or guarantor of a First Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Lot number, therefore becoming an "Eligible Holder") will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot on which there is a First Mortgage held, insured or guaranteed by such Eligible Holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a First Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; or

(c) any lapse, cancellation or material modification of any insurance policy maintained by the Association.

Section 11.2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 11.3. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 11.4. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request; provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Section 11.5. Applicability of Article XI. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws or Texas law for any of the acts set out in this Article.

## ARTICLE XII GOLF COURSE

Section 12.1. General. Neither membership in the Association nor ownership or occupancy of a Lot shall confer any ownership interest in the Golf Course. Rights to use the Golf Course will be on such terms and conditions as may be determined from time to time by the Association.

Section 12.2 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and across the Golf Course from Lots adjacent to the Golf Course will be preserved without impairment. The Association shall have no obligation to prune or thin trees or other landscaping and shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the Golf Course from time to time. In addition, the Association may, in its sole and absolute discretion, change the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any

view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

Section 12.3 Rights of Access and Parking. There is hereby established for the benefit of the Association and its Members a right and non-exclusive easement of access and use over those portions of the Community (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair and replacement of the Golf Course. Without limiting the generality of the foregoing, guests and invitees of Members shall have the right to park their vehicles on the roadways located within the Community at reasonable times before, during and after tournaments and other similar functions held by or at the Golf Course to the extent that the Golf Course has insufficient parking to accommodate such vehicles.

Section 12.4 Easements for Golf Course. The following easements apply only to the Golf Course:

a. The Association, its respective agents, successors and assigns, shall have non-exclusive easements over the Community as necessary for ingress and egress, utilities and such other purposes as may be reasonably necessary or convenient to the establishment, operation, maintenance, repair and replacement of the Golf Course. The benefitted parties shall be obligated to use due care in the exercise of such easement rights.

b. Every Lot and the Common Area is burdened with an easement permitting golf balls unintentionally to come upon such areas and for golfers at reasonable times and in a reasonable manner to come upon the Common Area or the exterior portions of a Lot to retrieve golf balls; provided, however, if any Lot is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: Declarant, the Association or its Members (in their capacities as such), any builder or contractor (in their capacities as such), any officer, director or partner of any of the foregoing, or any officer or director of any partner.

c. Any portion of the Community which is immediately adjacent to the Golf Course is hereby burdened with a non-exclusive easement in favor of the adjacent Golf Course for over spray of water, pesticides and chemicals from the irrigation system serving the Golf Course.

d. The Association, its respective agents, employees, contractors, successors and assigns, shall have a perpetual non-exclusive easement, to the extent reasonably necessary, over the Community for the installation, operation, maintenance, repair, replacement, observation and control of the entire irrigation system and equipment serving all or portions of the Golf Course.

Section 12.5 Assumption of Risk and Indemnification. Each Owner, by his or her purchase of a Lot in the vicinity of the Golf Course, acknowledges the inherent dangers associated with living in proximity to the Golf Course and hereby expressly assumes the risk of personal injury, property damage or other loss caused by maintenance, operation and general use of the Golf Course including, without limitation: (i) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around or before sunrise or after sunset); (ii) noise caused by

golfers; (iii) use of pesticides, herbicides and fertilizers; (iv) view restrictions caused by maturation of trees and shrubbery; (v) use of effluent in the irrigation of the Golf Course; (vi) reduction in privacy caused by constant golf traffic on the Golf Course or the removal or pruning of shrubbery or trees on the Golf Course; (vii) errant golf balls and golf clubs; and (viii) design of the Golf Course.

Each such Owner agrees that neither Declarant, any successor Declarant, any builder, the Association, or their successors, successors-in-title or assigns, any entity managing the Golf Course, any officer, director or partner of any of the foregoing, or any officer or director of any partner, or any organizer or sponsor of any tournament or special event (collectively, for the purposes of this Section 12.5, the "Released Parties") shall be liable to any Owner claiming any loss, injury or damage based upon, due to, arising from, directly or indirectly, or otherwise related to the proximity of such Owner's Lot to the Golf Course, the management of the Golf Course or the exercise of the easement rights set forth in this Article XII, even if such loss, damage or injury is caused in whole or in part by the negligence of any of the Released Parties. Each Owner hereby agrees to indemnify, defend and hold harmless the Released Parties from and against any and all such claims as set forth in the preceding sentence by Owner or Owner's lessees, licensees, invitees and employees with respect to tenants of such Owner's Lot for injury, loss or damage, whether known or unknown, foreseen or unforeseen, arising from or resulting from, directly or indirectly, acts or omissions of the Released Parties, even if caused in whole or in part by the negligence of the Released Parties. THE FOREGOING RELEASE AND INDEMNITY IS INTENDED TO RELEASE AND INDEMNIFY THE RELEASED PARTIES FROM AND AGAINST THEIR OWN NEGLIGENCE.

### ARTICLE XIII ATHLETIC MEMBERSHIP IN THE TENNIS FACILITY

Section 13.1. Membership. Subject to the terms of this Article, every Owner of a Lot upon which there is constructed a residence suitable for occupancy and every tenant ("Occupant") of a residence constructed upon a Lot pursuant to a written lease shall, for the period of ownership, or in the case of an Occupant during the tenancy, be a member ("Tennis Member") of the tennis facility (the "Tennis Facility") which is intended to be constructed on the property described on Exhibit "C" attached hereto and made a part hereof for all purposes (the "Tennis Facility Property"); provided, however, in no event shall (i) Declarant, (ii) any bona fide Owner who is engaged in the process of constructing a residential dwelling on any Lot for sale to consumers, or (iii) any bona fide mortgagee who has become an Owner by foreclosure or a deed in lieu thereof, for so long as the residence on such Lot remains unoccupied, be a Tennis Member. The Tennis Member shall maintain such membership in an active status and shall timely pay all dues, charges and fees as may be required in accordance with this Declaration or that may be incurred during the Tennis Member's use of the Tennis Facility or use of the Tennis Facility by any party authorized by such Tennis Member during the period of ownership of a Lot (or in the case of an Occupant, during the tenancy). The Tennis Member shall comply with all rules and regulations promulgated by the owner or operator of the Tennis Facility, as they may be amended from time to time.

Section 13.2 Corporate Owners. Any corporate Owner of a Lot shall be required to designate one (1) natural person to be the Tennis Member and such corporation shall itself not be, or be considered to be, entitled to any rights or privileges of a Tennis Member. Redesignation of a natural person after the initial designation may be done, but shall only be effective upon fifteen (15) days written notice to the owner or operator of the Tennis Facility.

Section 13.3. Multiple Owners. In the case of multiple Owners of a Lot or multiple Occupants, the Owners or Occupants shall be required to designate one (1) of the Owners or Occupants to be the Tennis Member, and the remaining Owners or Occupants shall not be entitled to any of the rights or privileges of a Tennis Member. Notwithstanding the foregoing, members of the immediate family of an Owner or Occupant (husband, wife and children under the age of 21) who reside in the residence constructed on the Lot with such Owner or Occupant shall not be considered multiple Owners or Occupants and may enjoy the privileges of membership under the membership rights of such Owner or Occupant.

Section 13.4. Membership. The acceptance of a deed or contract for deed to a Lot (or occupancy pursuant to a written lease, in the case of an Occupant) shall be deemed acceptance of the membership in the Tennis Facility and the rights and obligations thereby imposed. MEMBERSHIPS IN THE TENNIS FACILITY SHOULD NOT BE VIEWED OR ACQUIRED AS AN INVESTMENT AND NO PERSON PURCHASING A LOT SHOULD EXPECT TO DERIVE ANY ECONOMIC PROFITS FROM MEMBERSHIP IN THE TENNIS FACILITY. A Tennis Member is authorized to use any outdoor tennis courts and any clubhouse, including any food and beverage facilities associated with any outdoor tennis courts constructed on the Tennis Facility Property; provided, however, such use rights will not extend to any workout facilities, swimming pools or indoor tennis courts constructed on the Tennis Facility Property. Access to the workout facilities, the swimming pool or the indoor tennis courts, if any are constructed, shall be made available to the Tennis Members at a standard cost established by the owner or operator of the Tennis Facility.

Section 13.5. Membership Dues. Membership dues (the "Dues") shall commence on a Lot and as to an Owner at the time of acceptance by an Owner of a contract for deed to such Lot or recordation of a deed conveying the Lot to such Owner, whichever is the first to occur, and, to an Occupant, upon the commencement of the tenancy. Each Lot shall pay to the owner or operator of the Tennis Facility membership dues in the amount of One Hundred Thirty-Two Dollars (\$132.00) per year, payable annually in advance.

Section 13.6. Obligation for Dues. Any portion of the Dues which is not paid in full when due shall be delinquent on the day following the due date (here, "delinquency date") as specified in the invoice for such Dues. The owner or operator of the Tennis Facility shall have the right to reject partial payment of the Dues and demand full payment thereof. If the Dues or any part thereof are not paid within ten (10) days after the delinquency date, the unpaid amount of the Dues shall bear interest from and after the delinquency date until paid at a rate equal to the lesser of (i) eighteen percent (18%) per annum, or (ii) the maximum lawful rate. In addition to the foregoing, if the Dues remain unpaid at the expiration of fifteen (15) days after the due date set forth in the invoice for such Dues, a late charge in the amount of Fifteen and No/100 Dollars (\$15.00) shall be assessed against the non-paying Member or Members for each year or portion thereof that any portion of the Dues remain unpaid. A service charge in the amount of Twenty-five and No/100 Dollars (\$25.00) may be charged for each check that is returned because of insufficient funds.

Section 13.7. Attorney's Fees. In the event an action at law is instituted against the Member or Members personally obligated to pay the Dues, there shall be added to the amount of any such Dues:

- (a) the interest provided in Section 13.6 hereof;
- (b) the costs of preparing and filing the complaint in such action;
- (c) the reasonable attorney's fees incurred in connection with such action; and
- (d) any other reasonable costs of collection;

and in the event a judgment is obtained, such judgment shall include interest on the Dues as provided in Section 13.6 hereof and reasonable attorney's fees to be fixed by the court, together with the costs of the action.

Section 13.8. Transfer of Membership. The rights of a Tennis Member are not transferable or assignable other than as transferred with ownership or title to a Lot or as succeeded to by a successor Occupant and shall be an appurtenance to the Lot.

Section 13.9. Liability of Declarant and Association. Neither the Declarant, the Association, HLJV nor the employees, representatives, agents, successors or assigns of same shall ever be liable to any Owner, Tennis Member or Occupant or their guests, invitees, servants, agents, employees or representatives for any personal injury or property damage resulting from or in any way connected to the membership in the Tennis Facility or the activities undertaken at the Tennis Facility. All Owners, Tennis Members and Occupants acknowledge that neither Declarant nor the Association has any monetary or financial interest in the Tennis Facility and release Declarant, the Association and the employees, representatives, agents, successors and assigns of same from any liability for any personal injury or property damage resulting from activity at or related to the Tennis Facility or membership in the Tennis Facility.

Section 13.10. Conveyance of Tennis Facility. Owners are hereby advised that no representations or warranties have been or are made by Declarant, the Association or by any person acting on behalf of the foregoing with regard to the construction, acquisition or assumption of operation of the Tennis Facility and no purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the owner of the Tennis Facility. All Owners are advised that the Tennis Facility is a privately-owned tennis facility and club but that the status of the Tennis Facility may change at any time by virtue of the conveyance of the Tennis Facility Property a person other than the Tennis Facility Owner. Consent of the Association or any Owner shall not be required to effectuate any change in ownership or operation of the Tennis Facility for or without consideration and subject to or free of any mortgage, covenant, lien or other encumbrance.

Section 13.11 Rights of Access and Parking. There is hereby established for the benefit of the Tennis Facility and its members, if any (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors and designees, a right and non-exclusive easement of access and use over all roadways located within the Community reasonably necessary to travel between the entrance to the Community and the Tennis Facility and over those portions of the Community (whether Common Area or otherwise) reasonably necessary to the operation,

maintenance, repair and replacement of the Tennis Facility. Without limiting the generality of the foregoing, members, if any, of the Tennis Facility and guests and invitees of the Tennis Facility shall have the right to park their vehicles on the roadways located within the Community at reasonable times before, during and after tournaments and other similar functions held by or at the Tennis Facility to the extent that the Tennis Facility has insufficient parking to accommodate such vehicles.

Section 13.12. Easements for Tennis Facility. The following easement applies only to the Tennis Facility: The owner(s) of the Tennis Facility, their respective agents, successors and assigns, shall have non-exclusive easements over the Community as necessary for ingress and egress, utilities and such other purposes as may be reasonably necessary or convenient to the establishment, operation, maintenance, repair and replacement of the Tennis Facility. The benefitted parties shall be obligated to use due care in the exercise of such easement rights.

Section 13.13. Assumption of Risk and Indemnification. Each Owner, by its purchase of a Lot in the vicinity of Tennis Facility, acknowledges the inherent dangers associated with living in proximity to the Tennis Facility and hereby expressly assumes the risk of personal injury, property damage or other loss caused by maintenance, operation and general use of the Tennis Facility including, without limitation: (a) noise from maintenance equipment, (b) noise caused by tennis players, and (c) illumination from lighted tennis courts after sunset.

Each such Owner agrees that neither Declarant, any successor Declarant, the Association, the owner(s) of the Tennis Facility or their successors, successors-in-title or assigns, any entity managing the Tennis Facility, any officer, director or partner of any of the foregoing, or any officer or director of any partner or any organizer or sponsor of any tournament or special event (collectively, for purposes of this Section 13.13, the "Released Parties") shall be liable to any Owner claiming any loss, injury or damage based upon, due to, arising from, directly or indirectly, or otherwise related to the proximity of such Owner's Lot to the Tennis Facility, the management of the Tennis Facility or the exercise of the easement rights set forth in this Article XIII, even if such loss, damage or injury is caused in whole or in part by the negligence of any of the Released Parties. Each Owner hereby agrees to indemnify, defend and hold harmless the Released Parties from and against any and all such claims as set forth in the preceding sentence by Owner or Owner's lessees, licensees, invitees and employees with respect to tenants such Owner's Lot for injury, loss or damage, whether known or unknown, foreseen or unforeseen, arising from or resulting from, directly or indirectly, acts or omissions of the Released Parties, even if caused in whole or in part by the negligence of the Released Parties. THE FOREGOING RELEASE AND INDEMNITY IS INTENDED TO RELEASE AND INDEMNIFY THE RELEASED PARTIES FROM AND AGAINST THEIR OWN NEGLIGENCE.

Section 13.14. Duration. Notwithstanding anything to the contrary contained in the Declaration, the terms, provisions, duties and obligations of this Article XIII shall expire and be of no further effect on December 31, 2028.

Section 13.15. Enforcement. Notwithstanding anything to the contrary contained in the Declaration, the terms and provisions of this Article XIII may be enforced by the owner or operator of the Tennis Facility, in addition to the parties entitled to enforce the terms and provisions of the Declaration as set forth in the Declaration.

ARTICLE XIV  
GENERAL PROVISIONS

Section 14.1. Deed Restrictions. In addition to this Declaration, the Declarant may record for parts of the Properties specific deed restrictions, declarations of covenants, conditions and restrictions, and community association documents applicable thereto either by master instrument or individually recorded instruments. Such documents may vary as to different parts of the Properties in accordance with the Declarant's General Land Plan and the location, topography and intended use of the land made subject thereto. To the extent that part of the Properties are made subject to such specific documents, such land shall be subject to both the specific documents and this Declaration. The Association shall have the power to enforce all restrictions if expressly provided for therein, and to exercise any authority granted to it by them. Nothing contained in this Section 14.1 shall require the Declarant to impose uniform restrictions, or to impose restrictions of any kind on all or any part of the Properties.

Section 14.2. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If a person or party is found in the proceedings to be in violation of, or attempting to violate, the provisions of this Declaration, he shall bear all expenses of the litigation, including court costs and reasonable attorneys' and legal assistants' fees and costs, for all trial, appellate, bankruptcy and arbitration proceedings or otherwise and in perpetration thereof, incurred by the party enforcing the provisions of this Declaration. Declarant shall not be obligated to enforce this Declaration by any person other than itself. The Association may levy fines. The Board shall have the authority to adopt reasonable rules with regard to the levying of a fine and the procedures by which fines will be implemented. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the owner, and if applicable, its licensee or invitee.

Section 14.3. Severability. Invalidation of any one of these covenants or restrictions, or any provision contained herein, by judgment or court order, shall in no way affect any other provisions which shall remain in full force and effect.

Section 14.4. Amendment.

a. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by the vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the votes of the consent of the Class A members, and the Class B member, if any. Any amendment must be recorded. No amendment which affects the rights of Declarant or HLJV shall be effective without the prior written consent of Declarant or HLJV, as applicable.

b. Anything in this Declaration to the contrary notwithstanding, if any amendment to this Declaration is required at any time by an institutional mortgagee, such as a bank, savings and loan association, insurance company, purchaser of first mortgages, such as the Federal National Mortgage

Association or any governmental agency, such amendment shall be effective upon recording of such amendment executed by the Declarant in the public records of Denton County, Texas, without the necessity of the approval or joinder of any other Owners or the Association. No such amendment may adversely affect the lien or priority of any institutional first mortgagee recorded prior to such amendment or adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

c. Until the completion of the contemplated improvements on the Properties, and closing of all Lot sales, the Declarant specifically reserves the right, without the joinder of any person or other legal entity, to make amendments to this Declaration and its exhibits or in the General Land Plan as may be required by any governmental authority or, as may be necessary or desirable in Declarant's sole judgment. This paragraph shall take precedence over any other provision of this Declaration or its institutional first mortgagee recorded prior to such amendment. No such amendment to this Declaration or its exhibits may adversely affect the lien priority of an institutional First Mortgagee recorded prior to such amendment or adversely affect a right granted to an Owner under this Declaration without such Owner's written consent.

Section 14.5. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation". The headings used herein are for indexing purposes and shall not be used as a means of interpreting or construing the substantive provisions hereof.

Section 14.6. Declarant's Rights: Obligations of Cooperation by Association. Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Development, the following provisions shall apply and control notwithstanding any provisions contained in this Declaration to the contrary:

a. The Association hereby grants the Declarant an easement across all Common Area and additions to Common Area for the construction of water, sewer, drainage, water retention and electric facilities; for the installation of any other services and facilities deemed by Declarant necessary or desirable for the development of the Properties and Common Area; and for the conduct of all construction, sales and marketing activities deemed necessary or desirable by the Declarant.

b. The Association grants the Declarant the right to alter the boundaries of the Common Area whether or not they have been previously deeded to the Association, provided that such alteration does not substantially, materially and adversely affect the function and use of the Common Area. The Association and each Owner hereby irrevocably appoint the Declarant or its officers as their attorney-in-fact to execute and/or deliver any documents, plats, deeds or other written instruments necessary or convenient to accomplish the addition of Common Area and Properties, to create easements as deemed necessary by Declarant and to adjust the boundary or boundaries of the Common Area. Such appointment shall be deemed coupled with an interest and irrevocable.

c. Neither the Association nor its members, nor the use of the Common Area by the Association or its members, shall interfere with the completion of the contemplated improvements or the marketing and sale by Declarant of Lots within the Development.

d. Declarant reserves and the Association grants to Declarant the right to make such use of Lots, and the Common Area, as may facilitate completion and sale of Lots by the Declarant. Without limiting the foregoing, Declarant shall have the right to maintain a sales office, model units, administration office and/or construction office (which may be a construction trailer or a temporary or permanent building) on Lots or on the Common Area. Declarant further shall have the right to erect and maintain signs on Lots or on the Common Area, shall have the right to bring prospective purchasers upon the Common Area, shall have the right to use Common Area for any sales purposes, shall have the right to grant the right of use of the Common Area to any prospects or any other individuals or group in its sole discretion and shall be entitled to conduct all other marketing activities desired by Declarant. By way of example and not by way of limitation or definition, such Common Area may include the clubhouse, pool, Golf Course and other amenities.

e. Without the express prior written consent of Declarant, no amendments shall be made to the Declaration and no Rules and Regulations shall be adopted by the Association which shall modify the assessments or other charges on Declarant's Lots, or which shall restrict, impair or in Declarant's sole judgment adversely affect Declarant's activities on the Common Area, delegation of use of the Common Area or marketing and sale of the remaining Lots in the Development, whether or not such activities are enumerated in the preceding paragraphs.

Section 14.7. Declarant Loans to the Association. Declarant reserves the right, but not the obligation, to provide from time to time for certain capital improvements or working capital for the benefit of the Association and its Members. In such event, the Declarant may consider the cost of developing such capital improvements as a loan to the Association, repayable by the Association to the Declarant at such time and with such interest as may be reasonably agreed to by the Association and the Declarant prior to the development of such improvement by Declarant. Any such loan shall be evidenced by a promissory note made by the Association in favor of Declarant and such note shall be deemed reasonable upon execution by the Association.

Section 14.8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Development designed to make the Development safer than it otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE COMMUNITY, NOR SHALL THE ASSOCIATION BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, COMMITTEES AND DECLARANT, AND ANY SUCCESSOR DECLARANT, ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTY WITHIN THE

DEVELOPMENT ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF DWELLINGS ON LOTS RESULTING FROM ACTS OF THIRD PARTIES.

Section 14.9. Litigation. No judicial or administrative proceeding (including, without limitation, arbitration proceedings) shall be commenced or prosecuted by the Association unless approved by Class "A" Members representing at least seventy-five percent (75%) of the total Class "A" votes and the Class "B" Member, if any. This Section shall not apply, however, to (a) actions or proceedings brought by the Association to enforce the provisions of this Declaration (including, without limitation, the judicial or nonjudicial foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IV hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by Class "A" Members representing at least seventy-five percent (75%) of the total Class "A" votes and the Class "B" Member, if any.

Section 14.10. Use of the Words "Heritage Lakes". No Person shall use the words "Heritage Lakes" or any derivative or any other term which Declarant may select as the name of the development or any component thereof in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the words "Heritage Lakes" in printed or promotional matter solely to specify that particular property is located within the Development, and the Association shall be entitled to use the words "Heritage Lakes" in its name.

Section 14.11. Dispute Resolution.

a. Right to Correct. Prior to the Association or any Member commencing any proceeding to which Declarant is a party, including but not limited to an alleged defect of any improvement, Declarant shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

b. Alternative Method for Resolving Disputes. Declarant, its officers, directors, employees and agents; the Association, its officers, directors and committee members; all Persons subject to this Declaration; any Builder, its officers, directors, employees and agents; and any person not otherwise subject to this Declaration who agrees to submit to this Section 14.11 (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 14.11(c) (collectively, the "Claims") to the mandatory procedures set forth in Section 14.11(d).

c. Claims. Unless specifically exempted below, all Claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to Claims (i) arising out of or relating to the interpretation, application or enforcement of the Declaration, Bylaws, Design Guidelines and rules and regulations promulgated thereunder (the "Governing Documents") or the rights, obligations and duties of any Bound Party under the

Governing Documents; (ii) relating to the design or construction of improvements; or (iii) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party shall be subject to the provisions of this Section 14.11.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be considered Claims and shall not be subject to the provisions of this Section 14.11:

(i) any suit by the Association against any Bound Party to enforce the provisions of Article IV;

(ii) any suit by the Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to act under and enforce the provisions of Article VIII or Article IX;

(iii) any suit between or among Owners, which does not include Declarant, a Builder of the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

(iv) any suit in which any indispensable party is not a Bound Party.

d. Mandatory Procedures.

(i) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and Respondent referred to herein being individually, as a "Party", or, collectively, as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (a) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises;
- (c) the proposed remedy; and
- (d) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(ii) Negotiation and Mediation.

- (a) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith

negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(b) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have two days to submit the Claim to mediation under the auspices of the American Arbitration Association ("AAA") in accordance with the AAA's Commercial or Construction Industry Mediation Rules, as appropriate.

(c) If Claimant does not submit the Claim to mediation within such time, or does not appear for mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(d) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation Notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this Section and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

(iii) Binding Arbitration.

(a) Upon Termination of Mediation, Claimant shall thereafter be entitled to initial final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Such Claims shall not be decided by or in a court of law. Any judgment upon the

award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds \$250,000, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the Parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

(b) Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting Party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s).

(c) The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

e. Amendment of this Section 14.11.

Without the express prior written consent of Declarant, this Section may not be amended for a period of twenty years from the effective date of this Declaration.

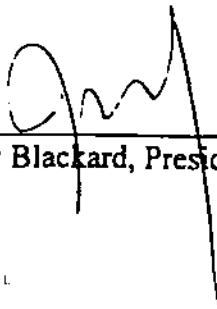
IN WITNESS HEREOF, the Declarant and HLJV have executed this Declaration as of the date first above written.

DECLARANT: U. S. HOME CORPORATION

By: Ronald Robbins  
RONALD ROBBINS  
Its: SR VICE PRESIDENT - DALLAS / FT. WORTH  
LAND DIVISION

HLJV: HERITAGE LAKES JOINT VENTURE

By: CYPRESS CREEK ESTATES, INC.,  
a Texas corporation, joint venturer

By:   
\_\_\_\_\_  
Jeffery Blackard, President

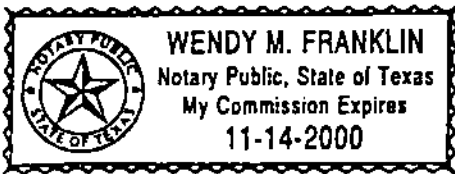
ACKNOWLEDGMENTS

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

BEFORE ME, a Notary Public in and for the State of Texas, duly authorized to take acknowledgments, personally appeared Ronald Robbins, St. Vice President of U. S. Home Corporation, a Delaware corporation, and acknowledged that (s)he executed the foregoing document on behalf of said corporation.

Wendy M. Franklin

Notary Public in and for  
the State of Texas

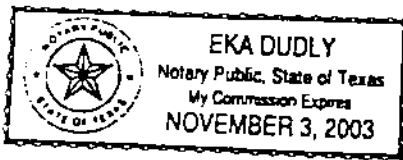


STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

BEFORE ME, a Notary Public in and for the State of Texas, duly authorized to take acknowledgments, personally appeared Jeffery Blackard, President of Cypress Creek Estates, Inc., a Texas corporation, joint venturer of Heritage Lakes Joint Venture, and acknowledged that he executed the foregoing document on behalf of said joint venture.

E. Dudley

Notary Public in and for  
the State of Texas



AFTER RECORDING RETURN TO:  
Riddle & Williams, P.C.  
3811 Turtle Creek Blvd., Suite 1050  
Dallas, Texas 75219

EXHIBIT "A"

Lots 1 through 22, Block A; Lots 1 through 24, Block C; Lots 1 through 22, Block D; Lots 1 through 13, Block E; Lots 1 through 5, Block F; Lots 2 through 24, Block V; and Lots 14 through 24, Block W of HERITAGE LAKES, PHASE I, an addition to the City of Frisco, Denton County, Texas, according to the map or plat thereof recorded in Cabinet Q, Slides 40 and 41, Plat Records, Denton County, Texas.

## Legal description of land:

Being a tract of land situated in the W.C. DUFFIELD SURVEY, ABSTRACT NO. 1010, Denton County, Texas, and being part of a called 297.454 acre tract of land described in deed from Underwood Development Corp. to Ippolito Interests, Inc. as recorded in Volume 1927, Page 372, Deed Records, Denton County, Texas, and being more particularly described as follows:

Beginning at a 1/2" diameter iron rod set in the Northwest line of the St. Louis and San Francisco Railroad (a 100 foot right-of-way), said iron rod also being at the Southeast corner of a tract of land described in deed from Charles S. McKamy to Underwood Financial Corporation, as recorded in Volume 1010, Page 685, Deed Records, Denton County, Texas, said iron rod also being at the Northeast corner of said Ippolito Interests, Inc. tract, said iron rod also being in the center of a 40 foot wide County Road, said iron rod also being in the North line of said Duffield Survey and the South line of the Seymore R. Collins Survey, Abstract No. 286;

Running South 25 deg 02 min 28 sec West, 3,475.75 feet, with the said Northwest line of Railroad and along a fence line, to a 1/2" diameter iron rod set in the South line of said Duffield Survey and the North line of the Jackson Survey, Abstract No. 611, said iron rod also being at the Southeast corner of The Colony No. 23, an Addition to the City of The Colony, Texas, according to the plat thereof recorded in Volume B, Page 64, Deed Records, Denton County, Texas;

Running North 89 deg 31 min 39 sec West, 860.34 feet with the North line of said Addition and with the said North line of Jackson Survey, and with the said South line of Duffield Survey and with the North line of the L. White Survey, Abstract No. 1395 and along a fence line, to a 1-1/2" diameter iron rod found;

Running North 89 deg 53 min 17 sec West, 1,316.46 feet, with the said South line of Duffield Survey and the said North line of White Survey and with the said North line of The Colony No. 23 and with the North line of a tract of land described in deed from Fox & Jacobs, Inc. to City of The Colony, as recorded in Volume 1063, Page 326, Deed Records, Denton County, Texas, to a 1/2" diameter iron rod set at the Northwest corner of said White Survey and the Southwest corner of said Duffield Survey, said iron rod also being in the East line of the M. Hunt Survey, Abstract No. 624, said iron rod also being at the Southeast corner of a called 20.00 acre of land described in deed from Lewisville Independent School District to City of The Colony, as recorded in Volume 1491, Page 978, Deed Records, Denton County, Texas;

Running North 00 deg 29 min 14 sec East, 3,161.30 feet, with the East line of said City of The Colony tract and with the East line of a tract of land described in deed from Underwood Development Corp. to Ippolito Interests, Inc., as recorded in Volume 1927, Page 372, Deed Records, Denton County, Texas, and with the East line of a tract of land described in deed from Tomlin Properties to Colony 275 Joint Venture, as recorded in Clerk's File No. 93-R0017428, Real Property Records, Denton County, Texas and with the East line of a tract of land described in deed from Tomlin Properties, Inc.

Lebanon Development 180 Joint Venture as recorded in Volume 2817, Page 114, Deed Records, Denton County, Texas and with the West line of said Duffield Survey and the said East line of Hunt Survey and along a fence line part of the way and along the centerline of a dirt road part of the way, to a 5/8" diameter iron rod found at the Southwest corner of a tract of land described in deed from Tomlin Properties to Colony 275 Joint Venture, as recorded in Clerk's File No. 93-R0017428, Real Property Records, Denton County, Texas, said iron rod also being in the Centerline of County Road, said iron rod also being at the Northwest corner of said Duffield Survey and the Southwest corner of said Collins Survey;

HENCE South 89 deg 39 min 18 sec East, 3,621.13 feet, with the South line of said Colony 275 Joint Venture tract and with the South line of said Underwood Financial Corp. tract and with the Centerline of said County Road and with the said North line of Duffield Survey and the said South line of Collins Survey, to the PLACE OF BEGINNING and containing 9,154,630 square feet (210.1614 acres) of land, of which approximately 116,373 square feet (2.6716 acres) lie within roadways, leaving a net area of 9,038,257 square feet (207.4898 acres) of land, more or less.

Save and accept Heritage Lakes Phase 1.

## LAWYERS TITLE INSURANCE CORPORATION

## EXHIBIT C

BEING all that tract of land in the City of Frisco, COLLIN County, Texas, a part of the COLLIN COUNTY SCHOOL LAND NO. 6 SURVEY, ABSTRACT NO. 149, and being part of that 284.0268 acre tract of land conveyed to Legacy Lakes Joint Venture from Sparling Financial Corporation on July 17, 1997 and recorded in Volume 3557, Page 350, COLLIN County Deed Records, and being further described as follows:

BEGINNING at a 1/2 inch iron rod set at the Northeast corner of a 37.4914 acre tract of land conveyed to Vintage Legacy Lakes National, L.P. from HRC Ranch, Ltd. on May 11, 1998 and recorded in Volume 4163, Page 650, Deed Records, COLLIN County, Texas;

THENCE South 89 degrees 47 minutes 01 seconds West, 481.83 feet along the North line of said 37.4914 acre tract to a 1/2 inch iron rod set for corner in the East line of proposed Legacy Drive (a future 120 foot right of way);

THENCE Northeasterly, 596.62 feet along a curve to the left in the east line of said proposed Legacy Drive, having a central angle of 16 degrees 35 minutes 38 seconds, a radius of 2060.00 feet, a tangent of 300.41 feet, and whose chord bears North 02 degrees 34 minutes 15 seconds East, 594.53 feet to a 1/2 inch iron rod set for corner in the South line of a 27.5950 acre tract of land (Tract 1) conveyed to HRC Ranch, Ltd. from Legacy Lakes Joint Venture on July 17, 1997 as recorded in Volume 3957, Page 323, Deed Records, COLLIN County, Texas;

THENCE North 89 degrees 47 minutes 01 seconds East, 452.92 feet to a 1/2 inch iron rod set at the Southeast corner of said Tract 1;

THENCE South 00 degrees 12 minutes 59 seconds East, 593.83 feet to the POINT OF BEGINNING AND CONTAINING 268,987 square feet or 6.175 acres of land, more or less.

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE  
OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS  
VOID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF DENTON

I hereby certify that this instrument was FILED in the File Number required by  
the act and the fee thereon's receipt by me, and was duly RECORDED, in the  
Official Public Records of Denton County of Denton County, Texas on

DEC 28 1999

*Cynthia Mitchell*  
COUNTY CLERK  
DENTON COUNTY, TEXAS



Filed for Record in:  
DENTON COUNTY, TX  
CYNTHIA MITCHELL, COUNTY  
CLERK

On Dec 28 1999  
At 2:07pm

Doc/Num : 99-R0129142  
Doc/Type : RST  
Recording : 111.00  
Doc/Mgmt : 6.00  
Receipt #: 50997  
Deputy - SHELLEY