

DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS AND EASEMENTS
FOR
ROYAL OAK ESTATES

This Declaration of Covenants, Conditions, Restrictions and Easements for Royal Oak Estates, is made by the Developer.

PREAMBLE

A. The Developer is the Owner of the Development.

B. The Developer desires to provide for the preservation and maintenance of the land and improvements located within the Development, and to this end, desires to adopt this Declaration of Covenants, Conditions, Restrictions and Easements for the Development for the purpose of protecting the value and desirability of the Development, for the benefit of the Development and every Owner.

C. The Developer deems it advisable to create an organization which shall have the power and authority to:

- (1) administer and enforce the covenants and restrictions governing the Development;
- (2) maintain and administer the Common Areas;
- (3) collect and disburse all assessments and charges deemed necessary for such maintenance, administration and enforcement; and
- (4) perform such other services as may be necessary or appropriate in furtherance of the other enumerated powers and authority.

D. The Developer will cause to be incorporated under the laws of the State of Texas, a nonprofit corporation known as "Royal Oak Property Owners Association" or such similar name as may be legally available, as the organization to perform the functions set forth in Paragraph C of this Preamble, which are more fully set forth in this Declaration.

ARTICLE I

DEFINITIONS

The following terms used in this Declaration and in any document relating to the Development, unless otherwise provided or unless the context provides otherwise, are defined as follows:

1.1. **Architectural Control Committee.** "Architectural Control Committee" or "the ACC" means the committee designated in this Declaration and in the Bylaws to control and supervise the construction, renovating, landscaping and maintenance activities of the Owners with respect to their Lots.

1.2. Articles. "Articles" means the Articles of Incorporation of the Association, together with any amendments to them.

1.3. Association. "Association" means the Texas nonprofit corporation formed pursuant to Paragraph D of the Preamble to this Declaration.

1.4. Association Rules. "Association Rules" or "Rules" means the rules and regulations regulating the use and enjoyment of the Development adopted by the Board.

1.5. Board of Directors. "Board of Directors" or "Board" means the Board of Directors of the Association.

1.6. Bylaws. "Bylaws" means the Bylaws of the Association.

1.7. Common Areas. "Common Areas" means those areas designated as such on the Plat, together with all roadways and improvements or any such other property, buildings and facilities acquired by the Association for the common benefit, use and enjoyment of the Owners and the Development.

1.8. Common Expenses. "Common Expenses" means (a) the expenses of, or reasonable reserves for, the maintenance, management, operation, repair and replacement of those portions of the Development which it is in the responsibility of the Association to maintain, manage, operate, repair and replace; (b) the costs of capital improvements which the Association may authorize; (c) the expenses of management and administration of the Association; (d) any other item or items designated by or in accordance with other provisions of this Declaration or the Bylaws (referred to as Common Expenses) and (e) any other expenses reasonably incurred by the Association on behalf of the Owners.

1.9. Declaration. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements and its amendments, modifications or supplements.

1.10. The Developer. "Developer" means SPENCE & SPENCE DEVELOPER, INC., a Texas corporation, and its successor and assigns.

1.11. Development. "Development" means Royal Oak Estates as reflected on the Plat.

1.12. Improvement. "Improvement" means any and all improvements and alterations of a Lot other than interior modifications of existing structures, including, but not limited to, homes, outbuildings, gazebos, patios, decks, garages, guest houses, servant's quarters, swimming pools, retaining walls, boat docks, piers, boathouses, walls, fencing, landscaping and driveway, whether intended to be temporary or permanent.

1.13. Interior Lot. "Interior Lot" means a Lot that does not have a common boundary line with SRA.

1.14. Lot. "Lot" or "Lots" means any numbered lot shown and designated on the Plat and includes both the deeded portion and any adjacent land subject to a limited use permit or lease from the Sabine River Authority.

1.15. Plat. "Plat" means the plat of Royal Oak Estates recorded in Volume 9, Pages 226 and 227, Plat Records, Wood County, Texas.

1.16. Member. "Member" means a member of the Association.

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1.17. Owner. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the payment or performance of an obligation.

1.18. Single Family Dwelling. "Single Family Dwelling" or "Home" means a building or structure designed, built, maintained, and utilized for private, residential purposes only by a single family.

1.19. SRA. "SRA" means the Sabine River Authority, a governmental agency of the State of Texas.

1.20. TNRCC. "TNRCC" means the Texas Natural Resources Conservation Commission.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

The Developer declares that the Development, together with all improvements constructed upon every Lot and upon Common Areas, is subject to this Declaration and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, easements, assessments, obligations and liens (generally referred to in this Declaration as the "CCRs") set forth in this Declaration, and any amendments or supplements to it. The CCRs shall run with the land and shall be perpetual in nature and shall be binding upon all parties having or claiming any right, title or interest to any property in the Development or any part of it, and their heirs, successors and assigns, and shall inure to the benefit of all Owners and future Owners.

ARTICLE III

COMMON AREAS

3.1. Development. The Developer shall have the responsibility, at its sole cost and expense, to initially develop and landscape the Common Areas as the Developer deems appropriate.

3.2. Conveyance to Association. At such time as the Developer ceases to control a majority of votes of the Association as provided herein, the Developer shall convey to the Association fee simple title to the Common Areas, without consideration, but subject to current real property taxes and reservations, easements, covenants and conditions and restrictions then of record, including those set forth in this Declaration. Such conveyance shall not relieve the Developer of its responsibility to complete the initial development of the Common Areas (as provided herein) within a reasonable time thereafter. The Association shall own, operate and maintain the Common Areas in accordance with the terms of this Declaration.

3.3. Owner's Easement of Enjoyment. Each Owner, including the Developer, and the members of each Owner's family who reside in a home on the Owner's Lot shall have an easement in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

a. The right of the Association to establish, amend and enforce compliance with the Association Rules, and to suspend the use and enjoyment of the Common Areas of any Owner, and such Owner's family for any period during which any assessment remains unpaid, except that use of the roadways may not be suspended. A copy of the Association Rules shall be

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delivered or mailed promptly upon adoption or amendment to each Owner at the current address of record on the Association's books.

b. The right of the Association to construct such facilities upon the Common Areas as the Association shall determine necessary for the use and enjoyment of the Owners and to provide maintenance services upon the Common Areas.

c. The right of the Developer, its agents and employees, to the nonexclusive use of the Common Areas and the facilities thereof, for the completion of the Developer's initial development of the Common Areas (in the event same shall not have been completed prior to the Developer's conveyance of the Common Areas to the Association) and for display and exhibition purposes in connection with the sale of Lots, which right the Developer hereby reserves; provided, however, that no such use by the Developer shall otherwise unreasonably restrict the Owners in their use and enjoyment of the Common Areas or their Lots; or otherwise unreasonably detract from the state of the Common Areas, except the gate area and roadways and streets.

d. All easements of record upon the Common Areas and those easements and reservations contained in this Declaration.

3.4. Partitions. An Owner as such shall have no fee ownership of the Common Areas and no right to sever his or her easement in the Common Areas or his or her membership in the Association from his or her undivided interest in the Common Area.

ARTICLE IV

ARCHITECTURAL CONTROL

4.1. Requirement of Architectural Approvals. Except as to construction, renovation or repair of improvements by the Developer, no building, boathouse, dock, fence, wall, hedges, mass plantings, poles, driveways, ponds, swimming pool, tennis court, or other improvement or structure shall be commenced, erected, or maintained on any Lot without the prior written approval of the Architectural Control Committee; neither shall any exterior addition or alteration in any such structures on any Lot, including but not limited to solar or heating systems; pools, spas, ponds, fountains; landscaping, stonework or concrete work; related mechanical, plumbing, or electrical facilities; awnings, patio covers, antennae, etc. be made until the plans and specifications showing the nature, kind, shape, materials, and location of the same have been submitted to and approved in writing by the ACC. All such improvements must be constructed in accordance with approved plans and consistent with the objective and subjective standards set forth in Article V.

Whenever in this Declaration the prior consent or approval of the Association is required as a condition to any action by an Owner affecting any alterations, changes, additions, or modifications, the Association through the Board may delegate to the ACC the right and duty to grant or withhold such consent or approval. The decisions of the ACC shall be final, conclusive, and binding upon any and all the applicants who may seek approval for any construction required hereunder.

4.2. Appointment of the ACC. The Architectural Control Committee shall initially consist of three (3) members, two of whom shall be appointed by the Developer and need not be Owners or members of the Association, and the Owner who is the first purchaser of a Lot. In the event of the death, resignation, or refusal to serve of a member of the ACC, the Developer shall appoint a replacement. The initial appointees (and any replacements) and the initial Owner member shall

hold office until the Developer no longer controls a majority of votes of the Association. Thereafter, the Board shall appoint all members of the Committee, who must all be Owners.

4.3. Content of Plans and Specifications. Prior to making any Improvements, whether such Improvements be initial improvements or subsequent alterations, modifications or other changes, an Owner shall be required to obtain the written approval of the ACC. Each Owner shall submit to the ACC a complete, legible set of plans for proposed Improvements, drawn to scale and complete in all necessary respects, including meeting the following minimum criteria:

a. Be in accordance with the provisions of this Declaration and in sufficient detail to permit the ACC to make its determination.

b. The location, height, style of architecture, exterior color schemes and materials of all Improvements shall be in harmony with the general surroundings of the buildings and structures on any Lot subject to the CCRs.

c. The location of the home and other Improvements shall be located within a building site approved by the ACC.

d. Plans for any construction of Improvements must include the following:

- i) All floor plans;
- ii) Exterior elevations (all sides) clearly showing proposed style and design and all proposed exterior materials including roofing;
- iii) Site plan clearly showing the location of the home and all Improvements including walkways, fences and drainage control;
- iv) Landscape plans and sprinkler system on all sides of proposed Improvements up to the property lines;
- v) Color and material samples selected for all exterior surfaces of the Improvements, including the roof
- vi) Construction specifications; and
- vii) Any other information requested by the ACC.

4.4. Basis of Approval. Approval of plans and specifications shall be based, among other things, on adequacy of site dimensions, structural design, conformity and harmony of external design and of location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general intent of the Declaration. The ACC may apply both objective and subjective criteria in the exercise of its judgment so as to ensure a uniform and reasonably high standard of aesthetically pleasing results for the property and improvements. Approval of plans shall be in the ACC's sole discretion. No disapproval shall prejudice any applicant from revising and resubmitting plans and specifications for any contemplated improvement.

Upon approval of any applicable plans and specifications, the ACC shall return to the applicant the plans and specifications with the notation "Approved" thereon, which the Owner shall maintain in his or her files for review and reference upon request by the ACC. No changes or deviations in or from the approved plans and specifications relating to the exterior of the proposed Improvements shall be made without the written approval of the ACC. The ACC shall also be entitled to inspect the site from time to time to ensure compliance with the plans and specifications.

The ACC shall respond to the Owner within fifteen (15) calendar days after receipt of the plans and all other requested information. Failure by the ACC to deliver approval of any submitted plans shall not be construed as approval of the plans. The Owner is obligated to obtain

the approval or endorsement of the ACC on any final plans prior to beginning the construction of any improvement. In the event the ACC fails or refuses to act within a reasonable time not to exceed 30 days, the Owner may petition the Board of Directors to review the appropriately submitted Plans to obtain an approval endorsement and the authority to proceed with the construction of any Improvements.

Under no circumstances shall the slab for any Improvements be poured before the ACC receives proof satisfactory to it that the Improvements are within the setback requirements required for the Lot and as represented on the site plan as approved.

The failure of the ACC to act shall not be construed as a waiver of any of the restrictions of this Declaration and the ACC may take any action necessary to enforce same.

4.5. No Responsibility. Neither the Association nor the ACC (which shall include any of their respective agents, representatives, directors and employees) shall be responsible for any structural defects shown in any plans or specifications or in any building or structure erected, nor shall they be liable for damages to anyone submitting plans for approval or to any Owner of a Lot subject to this Declaration by reason of a mistake in judgment, negligence, nonfeasance or otherwise. Each Owner, by taking title to a Lot, waives any claims for such damages. By reviewing and approving plans and specifications for compliance with the provisions of this Declaration, neither the Association nor the ACC warrants or represents that any submitted plans are structurally sound, comply with any government codes or restrictions, or are without defects. The ACC and Association disclaim any implied warranties, including but not limited to, workmanship, merchantability, habitability or any other warranty of any plans reviewed or approved. Furthermore, the inspection of the Improvements from time to time by the Association or the ACC shall not be construed as approval by the ACC that the Improvements are being constructed in accordance with the plans and specifications.

ARTICLE V

CONSTRUCTION RESTRICTIONS

Pursuant to this Declaration, the ACC shall have jurisdiction and right to approve all construction at the Development, including all that described below.

5.1. Construction. All homes and other Improvements shall be built and maintained as follows:

a. No structures shall be erected, altered, placed or permitted to remain on any Lot other than one single family dwelling for private single family use, together with other customary Improvements.

b. The minimum square footage for a home is 3000 square feet of living area (with not less than 2750 square feet on the ground floor of multi-floor homes), exclusive of porches (open or closed), garages, or unfinished space. Developer may change the minimum square footage for homes on Interior Lots, but not below 2500 square feet.

c. The Improvements to each Lot must include a two or more car enclosed garage.

d. All private driveways shall be surfaced with concrete approved by the ACC.

e. All exterior lights shall be located and maintained so as not to be directed toward or interfere with surrounding properties or the Common Area and shall be of a subdued nature. Mercury vapor and other types of bright area lighting are specifically prohibited. Subdued driveway and entrance lights may be permitted by the ACC.

f. No mechanical equipment including evaporative coolers, air conditioning equipment, heating equipment or ducts shall be allowed on roofs of structures or Improvements. All mechanical equipment, evaporative coolers, air conditioning equipment, meters, wiring, trash receptacles and related apparatuses shall be concealed from view from streets, other Lots and the Common Areas. Solar collectors or panels and satellite dishes smaller than 36 inches on roofs may be authorized by the ACC if not visible from the streets.

g. Any changes to the existing grade must be approved by the ACC.

h. Roofs shall be fire retarding and of such material and style as permitted by the ACC.

5.2. Setbacks. The minimum setback requirements for any structure from the Lot lines shall be fifty (50) feet from the front line and fifteen (15) from the side and back lines, unless the back line is a common boundary with SRA, in which case there is no minimum setback requirement for such line, or if different from that stated here, as set forth on the Plat. In the event an Owner has, with consent of the Developer, incorporated a Lot with part of an adjacent Lot, then the minimum side yard setback requirements shall be consistent with that set forth on the recorded Plat for the Lot from which the partial taking has been made.

For purposes of this Paragraph, eaves, steps, open porches or stoops, and roof overhangs shall be considered part of the structure for the setback requirements. Further, the set back requirement shall be measured from the Lot line to the portion of the Lot prepared for construction as identified on the Plat. Where site conditions warrant, the ACC shall be authorized to approve variances from setback minimums herein indicated.

5.3. Drainage. All surface drainage from Lots must be in a directed and controlled manner approved by the ACC. Except as provided below, the slope of any Lot must be maintained so as not to divert the normal flow of water and drainage to an adjacent Lot.

5.4. Utilities.

a. The Improvements shall include enclosures in which all exterior heating and cooling apparatus, meters, mechanical equipment, tanks and space for trash or rubbish containers shall be located out-of-sight from private streets and/or adjoining Lots.

b. All electrical service, cable and telephone service lines from the utility company and any similar or other lines installed by Owners shall be placed underground and no outside electrical, cable, telephone or other type lines shall be placed overhead. Service to the individual building site of such lines shall be taken from the point assigned by the ACC and/or the utility company.

5.5. Reconstruction or Restoration. In the event of reconstruction or restoration necessitated by damage to or destruction of any Improvements and/or landscaping, the Owner shall commence restoring such damaged or destroyed Improvements as soon as practicable but the construction must commence within six (6) months from the date of damage and the Owner must diligently pursue such construction until completion. If restoration differs from the originally approved plans, all exceptions or deviations from the original Plans must be approved by the ACC. All reconstruction shall be subject to the review and inspection of the ACC.

5.6. Shoreline Retaining Walls.

a. Each Lot that is not an Interior Lot shall have a retaining wall at its Lake Fork Reservoir shoreline constructed to the satisfaction of Developer and consistent with the retaining walls of adjacent Lots.

b. At the date of this Declaration, Developer is proceeding with the construction of retaining walls around the shoreline of the Development, but may not have the retaining wall constructed around the entire shoreline before Developer commences sales of Lots. If the retaining wall for a Lot is constructed at the time Developer conveys a Lot to the first Owner of such Lot who is not the Developer, the cost of the retaining wall shall be deemed to have been included in the price of the Lot.

c. If the retaining wall for a Lot is not completed or to be completed at the time Developer conveys the Lot to the first Owner of the Lot who is not the Developer, Developer and Owner shall agree in their contract of purchase and sale to a sum for the construction of the retaining wall ("the Retaining Wall Escrow Deposit"), and at the closing of the contract of purchase and sale, the Owner shall place the Retaining Wall Escrow Deposit in an interest bearing special escrow account at a bank of Developer's choice with offices in Wood, Rains, or Hopkins County, Texas, subject to Developer's sole signature. Such funds shall be held by Developer in such special escrow account until Developer has completed construction of the retaining wall for the Lot, at which time Developer will give the Owner notice of completion of the retaining wall and of Developer's intention to withdraw the Retaining Wall Escrow Deposit and accrued interest. Developer may withdraw the Retaining Wall Escrow Deposit and accrued interest at any time after the expiration of fifteen days after giving such notice to Owner.

d. Once Developer commences construction of the retaining wall for a Lot, Developer shall proceed with reasonable diligence to complete such construction in a good and workmanlike manner. In the event Developer has not commenced construction of the retaining wall for a Lot within eighteen months after the date the Retaining Wall Escrow Deposit is placed in escrow, at any time prior to the commencement of construction of the retaining wall by Developer, the Owner may contract with a third party approved in advance by Developer to construct the retaining wall for the Lot in a good and workmanlike manner. Upon completion of the retaining wall to Developer's reasonable satisfaction, and at the Owner's request, Developer shall pay over to the Owner the Retaining Wall Escrow Deposit plus accrued interest.

ARTICLE VI**COVENANTS AND USE RESTRICTIONS**

6.1. **Provisions Restricting Delegation of Use.** Any Owner may delegate his or her rights of use and enjoyment of the Common Areas to the members of his or her family, his or her guests, tenants and invitees, and to such other persons as may be permitted by the Bylaws and the Association Rules. However, if any Owner has sold his or her Lot to a contract purchaser or has leased or rented it, the Owner, members of the Owner's family, guests, tenants, employees and invitees shall not be entitled to use and enjoy any of such rights in the Common Areas while the Owner's Lot is occupied by the contract purchaser or tenant. Instead, the contract purchaser, or tenant, while occupying such Lot, shall be entitled to use and enjoy such rights and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenant were an Owner during the period of his or her occupancy. Each Owner shall notify the Secretary of the

Association of the names of any contract purchasers or tenants of such Owner's Lot. Each Owner, contract purchaser or tenant also shall notify the Secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights of use and enjoyment and the relationship that each such person bears to the Owner, contract purchaser or tenant.

Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of assessments or performance of the covenants, conditions and restrictions contained in this Declaration. Any lease, rental agreement or contract of sale entered into between any Owner and a tenant or contract purchaser of a Lot shall require compliance by the tenant or contract purchaser with all of the covenants, conditions and restrictions contained in this Declaration, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right of action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.

6.2. Residential Use; Construction. Only one single family dwelling plus allowable outbuildings shall be permitted on a Lot. Lots shall be used exclusively for single family residential purposes and no commercial activity shall be carried on, except that, "home office/telecommuting" or other such non-public activities of the resident may be permitted by the Board.

No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements and then such material shall only be placed within the property lines of the Lot upon which the improvements are erected and shall not be placed on the street or the right-of-way. During construction or thereafter, no Lot shall be used or maintained as a dumping ground for rubbish, waste or scrap building materials. All such material or rubbish shall be kept in sanitary containers and removed regularly and shall not be burned or buried on the Lot. No Lot may be resubdivided, by subdivision map or otherwise (except that individual Lots may be divided between abutting Owners and thereafter each Owner's resulting oversize Lot shall be considered as one Lot).

Notwithstanding the foregoing, Developer may combine, resubdivide, and replat Interior Lots, and Developer or the Association may construct recreational amenities (for example, club houses, swimming pools, tennis courts) on Interior Lots.

6.3. Simultaneous Construction. No structure ancillary to the residential improvements to be constructed upon any Lot (e.g., boat docks, gazebos, etc.) shall be commenced except upon the completion or simultaneously with the construction of the residential dwelling. However, water front retaining walls may be completed as to any Lot prior to residential construction.

6.4. Temporary Structures New Homes. No structure of a temporary character, such as a trailer, tent, shack, garage, barn or other outbuildings, shall be used on any Lot at any time as a residence, either temporarily or permanently. No trailer, camper or similar vehicle shall at any time be connected to utilities situated within a Lot, except in connection with construction of improvements and sales activities. The prohibition set forth herein shall be deemed to include both the use of a manufactured home from which the axle and wheels have been removed, and a manufactured home upon which the wheels have been left attached. However, trailers or temporary structures for use incidental to the initial construction of improvements by the Developer or the initial sales of Lots in any newly opened portion of the Development but specifically excluding habitation or overnight stay may be maintained, provided that such use does not unreasonably interfere with any Owner's use of the Common Area. Such trailers or

structures shall be promptly removed on completion of all such initial construction and all such initial sales. No building previously constructed elsewhere may be moved onto any Lot. Construction of new buildings only shall be permitted. At no time shall vehicles be permitted to park on any Lot unless a house has been or is in the process of being constructed. No overnight parking of vehicles on Lots under construction shall be permitted except by permission of the ACC.

6.5. Sewage Disposal. No building or structure shall be occupied as a residence unless all plumbing fixtures and appliances are connected to the sewage disposal system serving that Lot. Sewage disposal systems shall comply with all applicable SRA and TNRCC rules and regulations. Sewage disposal systems shall be "aerobic" or better, and shall not be conventional septic tank and lateral line systems. No outhouses shall be permitted on any part of the Development; all lavatories, toilets, and bath facilities shall be installed indoors and shall be connected with adequate grease traps, septic tanks, and lateral lines or aerobic systems constructed to comply with the specifications of state and local health authorities. Use of portable chemical toilets is permitted during construction, provided they are serviced regularly and promptly removed once construction is completed.

6.6. Tennis or Basketball Courts. Tennis court lighting and fencing shall be allowed with the approval of the ACC. No basketball goals or backboards or any other similar sporting equipment, of either a permanent or temporary nature, shall be placed within fifty feet (50') from the front property line of any Lot in the subdivision without the prior written consent of the ACC.

6.7. Mailboxes. Individual mailboxes within the Development, if permitted, shall be erected and maintained upon each Lot on which a residence is situated in accordance with such standards as the ACC shall promulgate from time to time. The ACC may require a uniform "Royal Oak mailbox." If individual mailboxes are not permitted, the Developer will furnish group mailboxes in the Common Area near the entrance.

6.8. Offensive Conduct; Nuisance. Nothing shall be done on or within the Development that may be or may become an annoyance or nuisance to the residents, or that in any way interferes with the quiet enjoyment of occupants of Lots. No Owner shall perform any act nor allow any condition to exist upon his or her Lot which will adversely affect the other residences or their Owners.

6.9. Parking Restrictions; Use of Garages. Unless otherwise permitted by the Association, no automobile shall be parked or left within the Development other than within a garage, or driveway or in any designated guest parking area or space. No boat, trailer, mobile home, motor home, unlicensed vehicle, camper, wrecked, inoperable, or commercial vehicle shall be parked or left within the Development (including any driveway) other than in a parking area designated by the Association for the parking and storage of such vehicles or unless garaged indoors in an approved structure. (The Association shall not, however, be required to provide storage or parking space for any such vehicles.) Guests of Owners arriving in recreational vehicles will be permitted to park in Owner's driveway for a maximum period of seven (7) days. Parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Association Rules.

6.10. Signs. Except as permitted by the ACC, no sign of any kind shall be displayed to the public view on or from any Lot, except one sign of not more than six square feet advertising the property for sale or rent, placed in such position of the Lot as designated for such purpose by the Association. The ACC may require a uniform "Royal Oak for sale" sign. This prohibition shall not include such signs as may be used by the Developer or its designees for the purpose of developing, selling, and improving Lots within the Development. In exercising its rights under this provision, the Developer shall not unreasonably interfere with the use of the Common Area

by any Owner. The ACC shall have the right to remove and dispose of any prohibited sign, advertisement, billboard or advertising structure which is placed on any Lot, and shall not be subjected to any liability for trespass or any other tort arising in connection therewith from such removal, nor in any way be liable for any accounting or other claim by reason of the disposition thereof.

6.11. Antennae. No television or radio antennae, poles, or other external fixtures other than those originally installed by the Developer or approved by the ACC, and any replacements, shall be constructed, erected, or maintained on or within any Lot or any structures on it. Television or radio antennae shall not materially impair the view lines of adjacent Lot owners. Each Owner shall have the right to maintain satellite dishes, but the ACC, to the fullest extent allowed by applicable law, shall have the absolute discretion to determine the location and/or remedial requirements regarding the placement of satellite dishes and antennae on any Lot and the securing of same. The location of common antennae or connection facilities for any cable television serving more than one Lot shall be designated by the ACC, and each Lot and its Owner shall be subject to the right of other Owners or the Association to install, use and maintain such common antennae or facilities.

6.12. Fences and Screens. No fences, awnings, ornamental screens, sunshades, or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Development except those that are installed in accordance with the original construction of the Development, and their replacements or as are authorized and approved by the ACC.

6.13. Gas or Liquid Storage. No tank for the storage of gas or any liquid shall be installed on or in the Development unless such installation is done by the Developer or has been approved by the ACC and properly shielded from view of the street, Common Area and other Lots.

6.14. Animals. No animals, reptiles, rodents, birds, livestock or poultry shall be kept in any Lot or elsewhere within the Development except that domestic dogs (except pit bulls or pit bull mixtures) and domestic cats, fish and birds inside bird cages may be kept as household pets within any Lot, if they are not kept, bred or raised for commercial purposes or in unreasonable quantities as determined by the Board. The Association may prohibit the keeping of any animal that in the sole and exclusive opinion of the Board constitutes a nuisance to any other Owner. Pets shall be controlled at all times. Each person bringing or keeping a pet into the Development shall be liable to other Owners, their family members, guests, invitees, tenants and contract purchasers, and their respective family members, guests and invitees for any damages to persons or property proximately caused by any pet brought upon or kept upon the Development by that person or by members of his or her family, his or her guests or invitees.

6.15. Use of Vehicles. No boat, truck, trailer, van, camper, recreational vehicle, or tent shall be used as a living area while located within the Development, except that temporary visitors arriving in such vehicles will be permitted an exclusion for a period not to exceed seven (7) days. No dismantling or assembling of motor vehicles, boats, trailers, or other machinery or equipment shall be permitted in any driveway or yard adjacent to a street. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the subdivision at any time. The operation of motor bikes, miniature cars, all terrain vehicles, golf carts, and other vehicles by unlicensed persons, when not prohibited by State law, shall be regulated by rules adopted by the Board of Directors. Posted speed limits must be obeyed at all times.

6.16. Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers. No owner shall permit or cause any trash or refuse to be kept within any portion of the Development other than in customary receptacles. Except on the scheduled day for trash pickup, these receptacles shall be located only in places specifically designated for such purposes. If the

Association shall determine that trash removal shall be arranged for by the Association and/or shall be paid through the Association's assessment procedure, then each Lot owner shall comply with all requirements determined by the Association's Board of Directors to be reasonable or necessary in connection therewith. No burning or burying of trash or garbage is permitted.

6.17. Removal of Trees. No living tree larger than 6" diameter at the base maybe removed from any Lot without the approval of the ACC. No vegetation of any kind may be altered or removed from any portion of the Common Area without the prior written consent of the Association. Should any Owner fail to comply with the restriction imposed by this provision, the Association may recover from such Owner the cost of restoring or replacing any such vegetation or to levy a fine if restoration is impractical.

6.18. Firearms. Hunting, as well as the discharge of firearms or fireworks by anyone, at an e in the Development is absolutely prohibited.

6.19. Compliance with Law and Association's Insurance Requirements. Nothing shall be done or kept in or on any Lot or in the Common Area that might increase the rate of, or cause cancellation of, insurance for the Development without the written consent of the Association. No Owner shall permit anything to be done or kept on his or her Lot that violates any law, ordinance, statute, rule or regulation of any local, county, state, or federal body or this Declaration.

6.20. Indemnification. Each Owner shall be liable to the remaining Owners for any damage to the Common Area or to Association-owned property that may be sustained by reason of the conduct or negligence of that Owner, that Owner's family members, contract purchasers, tenants, guests or invitees. Each Owner, by acceptance of his or her deed, agrees personally and for family members, contract purchasers, tenants, guests and invitees, to indemnify each and every other Owner, and to hold him harmless from, and to defend him against, any claim of any person for personal injury or property damage occurring within the Lot of that particular Owner.

6.21. Owner's Obligation for Segregated Real Property Taxes. To the extent allowed by law, all Lots shall be separately assessed and taxed so that all taxes, assessments and charges that may become liens prior to first mortgages under Texas law shall relate only to the individual Lots and not to the Development as a whole. Each Owner shall to pay before they become delinquent all taxes or assessments assessed by all taxing authorities against his or her or her Lot or Lots and against his or her personal property.

6.22. Savings Clause; Future Construction. Nothing in this Declaration shall limit the right of the Developer to complete construction of improvements to the Common Area and to Lots owned by the Developer or to alter them or to construct additional improvements as the Developer deems advisable before completion and sale of a Lot. Furthermore, no Owner shall object to plat changes by the Developer which do not directly involve said Owner's Lot or any lot contiguous thereto, provided however, such plat changes do not materially reduce the retail selling price of altered lots below the average selling price of all lots sold prior to such plat change. The rights of the Developer in this Declaration may be assigned by the Developer to any successor to all or any part of any the Developer's interest in the Development by an express assignment incorporated in a recorded deed that transfers any such interest to a successor or to a Mortgagee acquiring the Developer's interest in the Development by foreclosure or by deed in lieu of foreclosure.

6.23. Enforcement; Legal Remedies. The Board shall have the power to make such rules and regulations as may be necessary to carry out the intent of these restrictions, and shall have the right to bring lawsuits to enforce the rules and regulations adopted by it. The Board shall further have the right to levy fines for violations of these Rules or the CCRs and any such fine shall be

considered an assessment to be levied against the particular Owner involved. Fines may be levied against an Owner's tenant, and the Owner shall be jointly and severally liable with the tenant for payment of any fines. In the event the Board institutes legal action for collection of any fines, the defendant shall be liable for reasonable attorney's fees and legal costs and disbursements. The failure of any Owner to comply with any provision of this Declaration, the Articles, Bylaws, or the Association Rules, and failure to correct any such noncompliance shall give rise to a cause of action by the Association and any aggrieved Owner for the recovery of damages or for injunctive relief, or both.

6.24. **Adjacent SRA Property.** The Owner of any Lot that is adjacent to land owned by SRA and to which the Owner is entitled under SRA rules and regulations to use pursuant to a limited use permit or lease from SRA, shall obtain from SRA, maintain in force, and comply with the terms of a residential use permit or a lease restricted to residential uses from SRA.

ARTICLE VII

DUTIES OF THE ASSOCIATION; DUTIES OF AN OWNER

7.1. **Duties of the Association.** The Association, acting by and through its Board of Directors, shall be responsible for the proper and efficient management and operation of the Common Areas as more particularly described herein. The Association shall be responsible for:

- a. operating, maintaining and rebuilding, if necessary, all streets, entrance gates, street signs, rock walls, rock facing and other Common Area improvements originally constructed by the Developer or thereafter constructed by the Association;
- b. insuring all improvements which the Association is obligated to maintain against damage by fire or other insurable casualty with such company and with such limits as the Association deems appropriate;
- c. hiring, firing, supervising and paying employees and independent contractors including, but not limited to, property managers, watchmen and security personnel to operate the restricted entry system, workers, landscapers, attorneys, accountants, architects and contractors to carry out the obligations set forth herein;
- d. maintaining such liability insurance as the Association deems necessary to protect the Association, the Board of Directors of the Association and the ACC from any liability from occurrences or happenings on or about the Common Areas (including, but not limited to, errors and omissions insurance for the Board of Directors and the ACC of the Association as may be available) or for any decisions or actions taken to enforce any provision of this Declaration;
- e. maintaining worker's compensation insurance for the employees (if any) of the Association;
- f. purchasing all goods, supplies, labor and services reasonably necessary for the performance of the obligations set forth herein;
- g. enforcing the provisions of this Declaration;
- h. establishing and maintaining such cash reserves as the Association deems reasonably necessary for the maintenance, repair and replacement of any portion of the Common Areas for which it is responsible to maintain and for unforeseen contingencies;

- i. providing and paying for all utility services to the Common Areas;
- j. negotiating and entering into and thereafter performing or enforcing the performance of cost sharing agreements;
- k. provide for trash collection as determined by the Association;
- l. The establishing, repairing, constructing, maintaining and cleaning of all drainage areas on Common Areas or easements retained by the Developer or the Association with respect to the Development;
- m. collection and paying all taxes, charges and assessments, including real estate taxes on the Common Areas, franchise taxes, income taxes and all other taxes; and
- n. entering into such agreements and taking such actions as are reasonably necessary and convenient for the accomplishment of the obligations set forth above and elsewhere in this Declaration, and the operation and maintenance of the Development as a first class residential subdivision.

Notwithstanding anything in this Declaration to the contrary, in the event the need for maintenance, repairs or replacements required to be performed by the Association shall be caused by the negligent or tortious acts or neglect of an Owner, a member of an Owner's family, or an Owner's agent, employee, invitee, licensee or tenant, then such Owner shall be responsible for all of such damage. Furthermore, notwithstanding anything in this Declaration to the contrary, the Association shall not be liable to any Owner for any delay in the completion of any repair, restoration, replacement or maintenance due to causes beyond the reasonable control of the Association, its contractors or subcontractors. Specifically, the Association shall not be liable for delay occasioned by weather, shortage or unavailability of materials and strikes or work stoppages.

7.2. Duties of Owners.

a. Each Owner shall be responsible for the upkeep and maintenance of all Improvements and landscaping upon and abutting each Owner's Lot. The repair, replacement and maintenance required to be performed by the Owner upon those areas which are exposed to public view shall be done in a manner consistent with the first-class character of the Development and the intended development thereof and shall be subject to the control and supervision of the Association. In the event an Owner fails to perform the required maintenance or landscaping within thirty (30) days after notice from the Association specifying the nature thereof, the Association may, but shall not be obligated to, enter upon or adjacent to such Owner's Lot and perform such maintenance for and on behalf of the Owner, and the cost thereof shall be a Special Expense assessed against such Owner.

b. Each Owner shall have the responsibility of obtaining and keeping in full force and effect at each Owner's sole expense, (i) standard fire and extended risk insurance on all Improvements on each Owner's Lot; (ii) broad form comprehensive liability coverage for each Owner's Lot (which shall be in addition to and not in lieu of the comprehensive liability coverage required to be purchased by the Association); and (iii) such other insurance coverage as each Owner may elect to purchase; provided, however, that in no event is the insurance coverage purchased by the Association to be brought into contribution with insurance purchased by Owners. The Owner shall provide evidence of insurance upon written request from the Association. Under no circumstances shall this provision place a duty upon the Association to insure that Owners maintain insurance as provided herein, nor shall the Association be responsible in the event an Owner fails to have insurance or coverage as provided herein.

ARTICLE VIII

HOMEOWNER'S ASSOCIATION

8.1. Administration of Development. The duties of the Association will be governed by the terms of this Declaration, the Articles and the Bylaws. The Association may employ professional management agents to perform, subject to the supervision of the Board of Directors, such duties and services as the Board of Directors shall direct.

8.2. Membership. Each Owner shall be a Member. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The membership held by an Owner shall not be transferred, pledged or alienated in any way, except upon the sale of such Lot, and then only to the purchaser of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. Evidence of transfer of membership shall be furnished to the Association in the form of a certified copy of the recorded conveyance of a Lot signed by the current Owner thereof as reflected upon the books and records of the Association.

8.3. Voting Rights. The Association shall have two classes of voting membership with the voting rights hereinafter indicated:

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

Class B Members. The Developer shall be a Class B Member and shall be entitled to two (2) votes for each Lot owned. The Class B membership shall cease and be converted to a Class A membership on the happening of either of the following events, whichever occurs earlier:

- (1) When the total votes outstanding in the Class A membership equals the total votes outstanding in Class B membership; or
- (2) When the Developer notifies in writing the Association of the Developer's election to convert from a Class B Member to a Class A Member;

and (unless the next annual meeting of the Association shall come within ninety (90) days after such conversion) a special meeting of the Members shall be called by the Board of Directors within not more than ninety (90) days after such conversion for the purpose of electing a new Board of Directors. In all cases, the Developer shall be treated as a Member for purposes of this Declaration.

8.4. Suspension of Voting Rights. The voting rights of any Member shall be automatically suspended during any period in which such Member shall be delinquent in the payment of assessments due the Association, and during any such period in which the ACC or the Board has initiated an action to correct a violation of this Declaration, the Articles, the Bylaws or Association Rules and such violation has not been corrected.

8.5. **Board of Directors.** The Board of Directors of the Association shall be not less than three (3) nor more than five (5) in number. The initial Board of Directors pursuant to the Articles shall have three (3) members composed of the following:

Roy Spence, Delois Spence, and Steve Spence

who shall commence to serve at the time of recordation of this Declaration. Such original Directors shall serve at the pleasure of the Developer until such time that the Developer becomes a Class A Member of the Association and may be removed from office at any time by the Developer and during such period the Developer shall have authority, in its sole discretion, to fill any vacancies created or existing on the Board of Directors. The number of the Board of Directors shall be increased to five (5) members at the first meeting of the Members after the Developer becomes a Class A Member.

8.6. **Rules and Regulations.** The Association shall have the authority, from time to time, to make reasonable rules and regulations regarding the use and enjoyment of the Common Areas which are not inconsistent with this Declaration or the Articles or Bylaws, which rules and regulations shall be binding upon all Owners.

ARTICLE IX

ASSESSMENTS

9.1. **Establishment.** The Association shall have the responsibility and authority to assess each Lot for Common Expenses and, as applicable, Special Expenses and Restoration Assessments, and each Owner shall be personally liable for the payment of such assessments levied during the time any such Owner owns a Lot and the assessment applicable to each Lot shall be a charge and continuing lien upon each such Lot. If there is more than one Owner of a Lot, then each Owner is jointly and severally liable for all assessments provided herein. Annual Assessments are due and payable within 30 days of the beginning of each fiscal year.

9.3. **Annual Common Assessment.** Prior to the beginning of each fiscal year the Board of Directors shall, after taking into consideration all anticipated items of Common Expense for such fiscal year, together with a reasonable reserve for contingencies, fix and establish the amount of the Annual Common Assessment (the "Annual Common Assessment") applied to each Lot. The assessment shall apply to all Lots shown on the numbered Plat and shall accrue from the date the plat is filed. Initially the Assessment will be \$120 per year per Lot until such time as title to Common Areas are transferred from the Developer to the Association

The Developer shall not be required to pay any assessments, including but not limited to initial, annual, special or restoration assessments. The Developer may, but without obligation during the Development Period, pay to the Association from time to time, as required, any amounts necessary (over and above payments to the Association by other Lot Owners) to satisfy the Association's current operating expenses on a cash basis. The Developer shall have no obligation to contribute any sums to the Association. This paragraph shall not be subject to amendment without the consent of the Developer. The Developer shall have the right to suspend Annual Common Assessments during the Development Period if the Developer so desires.

9.4. **Capital Assessment.** In addition to the Annual Common Assessment, the Board may from time to time levy a Capital Assessment for the purpose of construction, reconstruction, repair or replacement of any capital improvement upon the Common Areas, provided however, that such capital assessment shall receive the approval of a majority of all votes cast at a meeting of Owners called for such purpose in accordance with the Bylaws.

9.5. Special Assessments. Special Assessments may be fixed and established by the Association against certain Lots for the payment of Special Expenses. Such Special Assessment shall be due and payable by the Owners of the Lots relating to the Special Assessments to the Association upon demand. No Special Assessment shall be established against a Lot until the Owner thereof shall have been given the opportunity to present evidence on such Owner's behalf at a hearing, and no such hearing shall be held until at least ten (10) days after notice specifying the reasons for the proposed Special Assessment and the exact time and place of the hearing has been sent to such Owner at his or her current address of record on the Association's books. The decision of the Board of Directors shall be final and binding upon the parties.

9.6. No Exemptions. No Owner shall be exempt from liability for assessments duly established by the Association. Further, no diminution or abatement of assessments shall be allowed or claimed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or Lots or from any action taken to comply with any law, ordinance or order of a governmental authority.

9.7. Vendor's Lien. Each deed of a Lot by the Developer to an Owner shall be deemed to reserve (whether or not expressly reserved) a vendor's lien (the "Vendor's Lien") to secure payment of all assessments due and to become due pursuant to this Declaration, which Vendor's Lien shall be deemed to be transferred and assigned to the Association. By the acceptance of a deed from the Developer, each Owner (and such Owner's subsequent grantees) assumes and agrees to pay such assessments in accordance with the terms and provisions of this Declaration.

9.8. Subordination. If any lot subject to the Vendor's Lien reserved for the payment of the assessments due and to become due pursuant to the terms of this Declaration shall be subject to the lien of a mortgage: (i) the foreclosure of the Vendor's Lien reserved herein shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of the mortgage or the acceptance of a deed in lieu of foreclosure thereof shall not operate to affect or impair the Vendor's Lien reserved herein unless such mortgage secures indebtedness incurred for the purchase or improvement of the Lot, in which case such foreclosure or deed in lieu of foreclosure will discharge the Vendor's Lien in respect to assessments accruing prior to such foreclosure or deed in lieu. Any purchaser at such a foreclosure sale or recipient of a deed in lieu of foreclosure shall be deemed the Owner of the Lot acquired and shall, except in as stated above, be responsible for payment of all assessments accrued prior to and after the foreclosure sale or receipt of a deed in lieu of foreclosure.

9.9. Delinquent Assessments. The payment of an assessment shall be considered delinquent if not paid upon the due date thereof and shall bear interest from such date at the rate of eighteen percent (18%) per annum (or the maximum rate allowed by applicable law if less than eighteen percent (18%) per annum) until paid. The Association shall also be entitled to collect a late charge in such amounts and upon such conditions as the Board of Directors may from time to time determine, but not in excess of the maximum amount allowed by applicable law. Each Owner (whether one or more) shall be and remain personally liable for the payment of all assessments which may be levied against such Owner's Lot by the Association in accordance with the terms and provisions of this Declaration until the same shall be paid in full, both principal and interest. In the event of sale or conveyance of a Lot the purchaser of same shall be required and entitled to cause such delinquent assessments to be paid out of the sales price and, failing this, such purchaser shall become personally liable for payment of such delinquent assessments by such purchaser's acceptance of a deed to such Lot from an Owner in default.

9.10. Collection of Assessments. The Association may enforce collection of delinquent assessments by suit at law for a money judgment and may seek the appointment of a receiver and/or judicial foreclosure of the Vendor's Lien reserved and transferred to the Association.

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restrictions.asp

Failure to seek judicial foreclosure of such Vendor's Lien in any suit at law for a money judgment shall not operate to waive such Vendor's Lien, but the same shall remain in full force and effect to secure the payment of all assessments due or to become due by an Owner.

9.11. Commingleing of Assessments. Except as otherwise expressly provided herein, all assessments and funds collected by the Association may be commingled in a single fund, and without the necessity of a specific accounting for each element of Common Expense or Special Expense for which such assessments or collection have been made.

9.12. Assessment Roll. The assessments against all Owners shall be set forth upon a roll of the Lots which shall be available in the office of the Association for inspection at all reasonable times by Owners and Mortgagees or their duly authorized representatives. Such Assessment Roll shall indicate for each Lot the name and address of the Owner or Owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. A certificate signed by an officer of the Association as to the status of an Owner's assessment account shall limit the liability of any person for whom made other than the Owner. The Association shall issue such certificates to such persons as an owner may request in writing and shall be entitled to charge a reasonable fee therefor in such amount as shall be determined by the Board of Directors from time to time.

9.13. Mortgagee. An Owner who shall give a mortgage upon such Owner's Lot shall notify the Association with the name and address of such Mortgagee. Each Owner authorizes the Association to disclose information concerning the Lot, assessments (and payments thereof), as well as all other matters regarding the Development, and the operation and maintenance thereof, and the Association.

ARTICLE X

POWERS RESERVED TO THE DEVELOPER

10.1. Changes. The Developer reserves the right to make such changes in the boundaries and designations of Lots not sold to others, in any easement upon any unsold Lot and in the Common Areas, as the Developer deems advisable, provided that any such changes shall not have a material adverse effect upon the boundaries or the beneficial use and enjoyment of any Lot then owned by Owners other than the Developer, and provided that such changes shall have been approved by the governing regulatory agencies exercising jurisdiction thereof

10.2. Owner Changes. Except as provided in paragraph 6.2, an Owner shall have no right to partition or divide any part of his or her Lot without the written consent of the Board of Directors.

ARTICLE XI

INSURANCE AND CASUALTY

11.1. Liability Insurance. The Association shall obtain and maintain comprehensive public liability insurance insuring the Association, any manager, the Developer and the Owners and occupants of Lots, and their respective family members, guests, invitees, and the agents and employees of each against any liability incident to the ownership or use of the Common Area or any other Association-owned or maintained real or personal property.

11.2. Fire Insurance. The Association shall obtain and maintain a master or blanket policy of fire insurance coverage for the full insurable value of all of the improvements within the

Common Area. The policy shall provide types and amounts of coverage as shall be determined by the Board. The policy shall name as insured the Association, the Owners and, as long as the Developer is the Owner of any Lot, Developer.

11.3. Individual Fire Insurance Required. Each Owner shall obtain and maintain, at his or her expense, fire and casualty coverage as may be required by the Owner's individual Mortgagee or, if no mortgagee encumbers a Lot, fire and casualty coverage as may be determined by the Board, with respect to damage or destruction to improvements on the Owner's Lot. All such individually carried insurance shall also contain a waiver of subrogation rights by the carrier as to other Owners, the Association, the Developer, and any institutional first Mortgagee of such Lot.

11.4. Demolition, Accident, and Other Association Insurance. The Association may purchase and maintain demolition insurance in adequate amounts to cover demolition, in case of total or partial destruction of any Common Area improvements and a decision not to rebuild, and a blanket policy of flood insurance. The Association also may purchase and maintain accident insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Association also may purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150 percent of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation). The Association may purchase and maintain such insurance on personal property owned by the Association, and any other insurance, that it deems necessary or that is required by an institutional first mortgagee.

11.5. Right to Adjust Losses. The Association is authorized to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 11.1, 11.2, and 11.5. The Association is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

11.6. Director and Officer Liability Insurance. To the extent insurance is available, the Association may purchase and maintain insurance in an amount as may be authorized by the Members acting at their annual or special meetings, on behalf of any director, officer, or member of a committee of the Association (collectively the "agents") against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, regardless of whether the Association would have the power to indemnify the agent against such liability under applicable law.

ARTICLE XII

AMENDMENTS

12.1. Amendments. This Declaration may be amended by the vote of not less than seventy-five percent (75%) of the Members, and such amendment shall be evidenced by a document in writing bearing their signatures, and shall be certified by the Secretary or President of the Association and duly recorded in the appropriate Real Property Records maintained by the office of the County Clerk of Wood County, Texas. However, if the consent or approval of any governmental authority or other person, firm, agency, or entity is required under this Declaration with respect to any amendment, no such amendment shall become effective unless such consent or approval is obtained.

12.2. Amendments Conform With Mortgagee Requirements. It is the intent of the Developer that this Declaration and the Articles and Bylaws, and the Project in general shall now and in the future meet all requirements necessary to purchase, guarantee, insure, or subsidize any mortgage

of a Lot in the Development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Veterans Administration. The Association and each Owner shall take any action or shall adopt any resolutions requested by the Developer and reasonably required by any Mortgagee to conform this Declaration to the requirements of any of these entities or agencies.

ARTICLE XIII

EASEMENTS

13.1. Utility Easements. There is hereby created an easement for all utilities as reflected on and in accordance with the Plat (including, but not limited to gas, electricity, water, cable, sewer, and other utility services commonly used by Lot Owners from time to time). Such easement shall also include mail and delivery services and the installation, repair and maintenance of receptacles for such services. All easements shall include the construction, repair and maintenance of such utilities.

13.2. Drainage Easement. There is hereby created an easement in favor of the Association for drainage on the Development as identified and reflected on and in accordance with the Plat or any amendments thereto including the private streets and roads, and such other drainage easements as may be needed from time to time in the Development. Such easement shall include the right to install, repair, maintain and clean all drainage areas.

13.3. Declarant's Easement to Correct Drainage. For a period of three (3) years from the date of conveyance of each Lot, the Developer or the Association shall have an easement and right on, over, and under the ground within the Development to maintain and correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance for the subdivision. Such right expressly includes the right to cut trees, bushes or shrubbery, make any grading of the soil or to take other similar action reasonably necessary, the following of which the Developer shall restore the affected property to its original condition as near as practicable. The Developer shall give timely notice of intent to take such action to all affected owners, unless, in the opinion of the Developer, an emergency exists which prevents such notice.

13.4. Easement to Inspect and Correct Violations. There hereby is created an easement in favor of the Association for ingress and egress to any Lot during reasonable hours:

- a. to inspect such lot for alleged violations of and/or compliance with architectural standards and/or approved plans for authorization and Improvements, provided the Owner of such Lot is given notice of the purpose and time of such inspection at least three (3) days in advance thereof; and
- b. performing such correction of violations or such maintenance on the Lot as is required by the Declaration.

13.5. Easements for Governmental Personnel. A right of entry on any Lot or Common Area is hereby granted to law enforcement officers, fire and rescue and local animal control personnel and mail and delivery personnel as needed to carry out their duties.

ARTICLE XIV

DEFAULT AND ENFORCEMENT

14.1. Default and Remedies. Failure to comply with any of the terms of this Declaration, the Articles, the Bylaws or the rules and regulations, shall constitute an event of default and shall be grounds for relief, which may include without limitation an action by the Association or any aggrieved Owner to recover sums due for damages and injunctive relief, or any combination thereof.

14.2. Costs. In any proceeding arising because of any alleged default by an Owner, the Association or any aggrieved Owner, if successful, shall be entitled to recover the costs of the proceedings and reasonable attorneys' fees from such Owner as a Special Expense.

14.3. No Waiver. The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration, the Articles, the Bylaws or the rules and regulations, shall not constitute a waiver of the right of the Association or of any such Owner to enforce such rights, provision, covenant or condition in the future.

14.4. Rights Cumulative. All rights, remedies and privileges granted to the Association or any Owner pursuant to the provisions of this Declaration, the Articles, the Bylaws, or the rules and regulations, shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such party at law or in equity.

14.5. Enforcement. The Association, any Owner, the Developer, or any Mortgagee, as their interest may appear, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now and hereinafter imposed by the provisions of this Declaration.

ARTICLE XV

MISCELLANEOUS

15.1. Severability of Provisions. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate any other provisions.

15.2. Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

15.3. Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies set forth, may be abated or enjoined by any Owner, any member of the Board, the manager, or the Association.

15.4. No Discriminatory Restrictions. No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing, or occupancy of his or her Lot on the basis of race, sex, age, marital status, national ancestry, color or religion.

15.5. Interstate Land Sales Act. The Developer's activities comply with the applicable provisions of the Interstate Land Sales Act and the Developer intends to conduct its affairs in

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such a manner which shall continue to qualify it under a number of exemptions pursuant to said Act.

15.6. Owner's Access to Books. Any Owner may, at any reasonable time and upon reasonable notice to the Board or manager at his or her own expense, cause an audit or inspection to be made of the books and financial records of the Association.

15.7. Right to Variance. So long as the Developer controls a majority of the votes of the Association, the Developer reserves unto itself, its successors and assigns, the right and power to vary any restriction contained herein when, in the sole judgment of the Developer, such variance will relieve undue hardship or will otherwise be deemed to be in the best interests of the Development as a whole, provided, however, that any such variance or change shall not be more restrictive than the original restriction which is varied or changed, and provided further that such variance or change shall be reduced to writing and filed of record in Wood County, Texas, as an amendment to this Declaration without the necessity of the concurrence of any other Lot Owner.

15.8. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision of the Declaration shall not constitute a waiver of the right to enforce the provision thereafter.

15.9. Notification of Sale. Concurrently with the consummation of the sale of any Lot, or within five (5) business days thereafter, the new Owner shall give the Association notice of such sale. Such notification shall set forth the name of the new Owner and his or her mortgagee and the name of the old Owner, the common address of the Lot purchased, the new Owner's and the mortgagee's mailing address, and the date of sale. Before the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board, or the manager shall be deemed to be duly made and given to the new Owner if duly and timely made and given to the old Owner. Mailing addresses may be changed at any time upon written notification to the Association.

15.10. Number Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter, as the context requires.

15.11. Easements Reserved and Granted. All easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, whether or not a reference to this Declaration is made in a deed to any Lot.

15.12. Notices. All payments, requests, communications and notices required or permitted by law or this agreement shall be in writing and be deemed to have been duly delivered forty-eight (48) hours after being sent by either US postal service or private overnight package services to the address of record on the Associations books at the time of sending. Notices shall also be deemed received upon personal delivery to the mailbox of any Lot or to any occupant of a Lot over the age of twelve (12) years.

15.13. Binding Effect. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Developer, and the heirs, personal representatives, grantees, tenants, successors, and assigns of the Owners.

15.14. Duration. Except as amended, modified or changed in accordance with this Declaration, the Covenants, Conditions and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years, after which, it shall be automatically renewed for

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successive 10 year periods unless an instrument signed by ninety percent (90%) of all of the Members has been recorded, agreeing to replace said Covenants, Conditions and Restrictions in whole or in part; provided, however, that no such agreements to change shall be effective unless made and recorded ninety (90) days in advance of the effective date of such change, and such effective date coincides with the expiration date of the initial or any successive renewal periods.

IN WITNESS WHEREOF, the Developer has duly executed this Declaration this 24th day of January, 2001.

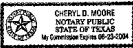
SPENCE & SPENCE DEVELOPER, INC.

By: Roy Spence
Its: Roy Spence, President

STATE OF TEXAS

COUNTY OF WOOD

This instrument was acknowledged before me on January 24, 2001, by ROY SPENCE, President of SPENCE & SPENCE DEVELOPER, INC., a Texas corporation, on behalf of said corporation.



Cheryl D. Moore
Notary Public, State of Texas

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FILED AND RECORDED THE 24TH DAY OF JAN, 2001 AT 2:42 O'CLOCK P M
BRENDA TAYLOR, COUNTY CLERK WOOD COUNTY, TEXAS

BY Shirley Brady DEPUTY

Association shall determine that trash removal shall be arranged for by the Association and/or shall be paid through the Association's assessment procedure, then each Lot owner shall comply with all requirements determined by the Association's Board of Directors to be reasonable or necessary in connection therewith. No burning or burying of trash or garbage is permitted.

6.17. **Removal of Trees.** No living tree larger than 6" diameter at the base may be removed from any Lot without the approval of the ACC. No vegetation of any kind may be altered or removed from any portion of the Common Area without the prior written consent of the Association. Should any Owner fail to comply with the restriction imposed by this provision, the Association may recover from such Owner the cost of restoring or replacing any such vegetation or to levy a fine if restoration is impractical.

6.18. **Firearms.** Hunting, as well as the discharge of firearms or fireworks by anyone, at an in the Development is absolutely prohibited.

6.19. **Compliance with Law and Association's Insurance Requirements.** Nothing shall be done or kept in or on any Lot or in the Common Area that might increase the rate of, or cause cancellation of, insurance for the Development without the written consent of the Association. No Owner shall permit anything to be done or kept on his or her Lot that violates any law, ordinance, statute, rule or regulation of any local, county, state, or federal body or this Declaration.

6.20. **Indemnification.** Each Owner shall be liable to the remaining Owners for any damage to the Common Area or to Association-owned property that may be sustained by reason of the conduct or negligence of that Owner, that Owner's family members, contract purchasers, tenants, guests or invitees. Each Owner, by acceptance of his or her deed, agrees personally and for family members, contract purchasers, tenants, guests and invitees, to indemnify each and every other Owner, and to hold him harmless from, and to defend him against, any claim of any person for personal injury or property damage occurring within the Lot of that particular Owner.

6.21. **Owner's Obligation for Segregated Real Property Taxes.** To the extent allowed by law, all Lots shall be separately assessed and taxed so that all taxes, assessments and charges that may become liens prior to first mortgages under Texas law shall relate only to the individual Lots and not to the Development as a whole. Each Owner shall to pay before they become delinquent all taxes or assessments assessed by all taxing authorities against his or her or her Lot or Lots and against his or her personal property.

6.22. **Savings Clause: Future Construction.** Nothing in this Declaration shall limit the right of the Developer to complete construction of improvements to the Common Area and to Lots owned by the Developer or to alter them or to construct additional improvements as the Developer deems advisable before completion and sale of a Lot. Furthermore, no Owner shall object to plat changes by the Developer which do not directly involve said Owner's Lot or any lot contiguous thereto, provided however, such plat changes do not materially reduce the retail selling price of altered lots below the average selling price of all lots sold prior to such plat change. The rights of the Developer in this Declaration may be assigned by the Developer to any successor to all or any part of any the Developer's interest in the Development by an express assignment incorporated in a recorded deed that transfers any such interest to a successor or to a Mortgagee acquiring the Developer's interest in the Development by foreclosure or by deed in lieu of foreclosure.

6.23. **Enforcement; Legal Remedies.** The Board shall have the power to make such rules and regulations as may be necessary to carry out the intent of these restrictions, and shall have the right to bring lawsuits to enforce the rules and regulations adopted by it. The Board shall further have the right to levy fines for violations of these Rules or the CCRs and any such fine shall be

considered an assessment to be levied against the particular Owner involved. Fines may be levied against an Owner's tenant, and the Owner shall be jointly and severally liable with the tenant for payment of any fines. In the event the Board institutes legal action for collection of any fines, the defendant shall be liable for reasonable attorney's fees and legal costs and disbursements. The failure of any Owner to comply with any provision of this Declaration, the Articles, Bylaws, or the Association Rules, and failure to correct any such noncompliance shall give rise to a cause of action by the Association and any aggrieved Owner for the recovery of damages or for injunctive relief, or both.

6.24. Adjacent SRA Property. The Owner of any Lot that is adjacent to land owned by SRA and to which the Owner is entitled under SRA rules and regulations to use pursuant to a limited use permit or lease from SRA, shall obtain from SRA, maintain in force, and comply with the terms of a residential use permit or a lease restricted to residential uses from SRA.

ARTICLE VII

DUTIES OF THE ASSOCIATION; DUTIES OF AN OWNER

7.1. Duties of the Association. The Association, acting by and through its Board of Directors, shall be responsible for the proper and efficient management and operation of the Common Areas as more particularly described herein. The Association shall be responsible for:

- a. operating, maintaining and rebuilding, if necessary, all streets, entrance gates, street signs, rock walls, rock facing and other Common Area improvements originally constructed by the Developer or thereafter constructed by the Association;
- b. insuring all improvements which the Association is obligated to maintain against damage by fire or other insurable casualty with such company and with such limits as the Association deems appropriate;
- c. hiring, firing, supervising and paying employees and independent contractors including, but not limited to, property managers, watchmen and security personnel to operate the restricted entry system, workers, landscapers, attorneys, accountants, architects and contractors to carry out the obligations set forth herein;
- d. maintaining such liability insurance as the Association deems necessary to protect the Association, the Board of Directors of the Association and the ACC from any liability from occurrences or happenings on or about the Common Areas (including, but not limited to, errors and omissions insurance for the Board of Directors and the ACC of the Association as may be available) or for any decisions or actions taken to enforce any provision of this Declaration;
- e. maintaining worker's compensation insurance for the employees (if any) of the Association;
- f. purchasing all goods, supplies, labor and services reasonably necessary for the performance of the obligations set forth herein;
- g. enforcing the provisions of this Declaration;
- h. establishing and maintaining such cash reserves as the Association deems reasonably necessary for the maintenance, repair and replacement of any portion of the Common Areas for which it is responsible to maintain and for unforeseen contingencies;

considered an assessment to be levied against the particular Owner involved. Fines may be levied against an Owner's tenant, and the Owner shall be jointly and severally liable with the tenant for payment of any fines. In the event the Board institutes legal action for collection of any fines, the defendant shall be liable for reasonable attorney's fees and legal costs and disbursements. The failure of any Owner to comply with any provision of this Declaration, the Articles, Bylaws, or the Association Rules, and failure to correct any such noncompliance shall give rise to a cause of action by the Association and any aggrieved Owner for the recovery of damages or for injunctive relief, or both.

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- c. hiring, firing, supervising and paying employees and independent contractors including, but not limited to, property managers, watchmen and security personnel to operate the restricted entry system, workers, landscapers, attorneys, accountants, architects and contractors to carry out the obligations set forth herein;
- d. maintaining such liability insurance as the Association deems necessary to protect the Association, the Board of Directors of the Association and the ACC from any liability from occurrences or happenings on or about the Common Areas (including, but not limited to, errors and omissions insurance for the Board of Directors and the ACC of the Association as may be available) or for any decisions or actions taken to enforce any provision of this Declaration;
- e. maintaining worker's compensation insurance for the employees (if any) of the Association;
- f. purchasing all goods, supplies, labor and services reasonably necessary for the performance of the obligations set forth herein;
- g. enforcing the provisions of this Declaration;
- h. establishing and maintaining such cash reserves as the Association deems reasonably necessary for the maintenance, repair and replacement of any portion of the Common Areas for which it is responsible to maintain and for unforeseen contingencies;

- i. providing and paying for all utility services to the Common Areas;
- j. negotiating and entering into and thereafter performing or enforcing the performance of cost sharing agreements;
- k. provide for trash collection as determined by the Association;
- l. The establishing, repairing, constructing, maintaining and cleaning of all drainage areas on Common Areas or easements retained by the Developer or the Association with respect to the Development;
- m. collection and paying all taxes, charges and assessments, including real estate taxes on the Common Areas, franchise taxes, income taxes and all other taxes; and
- n. entering into such agreements and taking such actions as are reasonably necessary and convenient for the accomplishment of the obligations set forth above and elsewhere in this Declaration, and the operation and maintenance of the Development as a first class residential subdivision.

Notwithstanding anything in this Declaration to the contrary, in the event the need for maintenance, repairs or replacements required to be performed by the Association shall be caused by the negligent or tortious acts or neglect of an Owner, a member of an Owner's family, or an Owner's agent, employee, invitee, licensee or tenant, then such Owner shall be responsible for all of such damage. Furthermore, notwithstanding anything in this Declaration to the contrary, the Association shall not be liable to any Owner for any delay in the completion of any repair, restoration, replacement or maintenance due to causes beyond the reasonable control of the Association, its contractors or subcontractors. Specifically, the Association shall not be liable for delay occasioned by weather, shortage or unavailability of materials and strikes or work stoppages.

7.2. Duties of Owners.

a. Each Owner shall be responsible for the upkeep and maintenance of all Improvements and landscaping upon and abutting each Owner's Lot. The repair, replacement and maintenance required to be performed by the Owner upon those areas which are exposed to public view shall be done in a manner consistent with the first-class character of the Development and the intended development thereof and shall be subject to the control and supervision of the Association. In the event an Owner fails to perform the required maintenance or landscaping within thirty (30) days after notice from the Association specifying the nature thereof, the Association may, but shall not be obligated to, enter upon or adjacent to such Owner's Lot and perform such maintenance for and on behalf of the Owner, and the cost thereof shall be a Special Expense assessed against such Owner.

b. Each Owner shall have the responsibility of obtaining and keeping in full force and effect at each Owner's sole expense, (i) standard fire and extended risk insurance on all Improvements on each Owner's Lot; (ii) broad form comprehensive liability coverage for each Owner's Lot (which shall be in addition to and not in lieu of the comprehensive liability coverage required to be purchased by the Association); and (iii) such other insurance coverage as each Owner may elect to purchase; provided, however, that in no event is the insurance coverage purchased by the Association to be brought into contribution with insurance purchased by Owners. The Owner shall provide evidence of insurance upon written request from the Association. Under no circumstances shall this provision place a duty upon the Association to insure that Owners maintain insurance as provided herein, nor shall the Association be responsible in the event an Owner fails to have insurance or coverage as provided herein.

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- i. providing and paying for all utility services to the Common Areas;
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- l. The establishing, repairing, constructing, maintaining and cleaning of all drainage areas on Common Areas or easements retained by the Developer or the Association with respect to the Development;
- m. collection and paying all taxes, charges and assessments, including real estate taxes on the Common Areas, franchise taxes, income taxes and all other taxes; and
- n. entering into such agreements and taking such actions as are reasonably necessary and convenient for the accomplishment of the obligations set forth above and elsewhere in this Declaration, and the operation and maintenance of the Development as a first class residential subdivision.

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ARTICLE VIII

HOMEOWNER'S ASSOCIATION

8.1. Administration of Development. The duties of the Association will be governed by the terms of this Declaration, the Articles and the Bylaws. The Association may employ professional management agents to perform, subject to the supervision of the Board of Directors, such duties and services as the Board of Directors shall direct.

8.2. Membership. Each Owner shall be a Member. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The membership held by an Owner shall not be transferred, pledged or alienated in any way, except upon the sale of such Lot, and then only to the purchaser of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. Evidence of transfer of membership shall be furnished to the Association in the form of a certified copy of the recorded conveyance of a Lot signed by the current Owner thereof as reflected upon the books and records of the Association.

8.3. Voting Rights. The Association shall have two classes of voting membership with the voting rights hereinafter indicated:

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

Class B Members. The Developer shall be a Class B Member and shall be entitled to two (2) votes for each Lot owned. The Class B membership shall cease and be converted to a Class A membership on the happening of either of the following events, whichever occurs earlier:

- (1) When the total votes outstanding in the Class A membership equals the total votes outstanding in Class B membership; or
- (2) When the Developer notifies in writing the Association of the Developer's election to convert from a Class B Member to a Class A Member;

and (unless the next annual meeting of the Association shall come within ninety (90) days after such conversion) a special meeting of the Members shall be called by the Board of Directors within not more than ninety (90) days after such conversion for the purpose of electing a new Board of Directors. In all cases, the Developer shall be treated as a Member for purposes of this Declaration.

8.4. Suspension of Voting Rights. The voting rights of any Member shall be automatically suspended during any period in which such Member shall be delinquent in the payment of assessments due the Association, and during any such period in which the ACC or the Board has initiated an action to correct a violation of this Declaration, the Articles, the Bylaws or Association Rules and such violation has not been corrected.

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- (1) When the total votes outstanding in the Class A membership equals the total votes outstanding in Class B membership; or
- (2) When the Developer notifies in writing the Association of the Developer's election to convert from a Class B Member to a Class A Member;

and (unless the next annual meeting of the Association shall come within ninety (90) days after such conversion) a special meeting of the Members shall be called by the Board of Directors within not more than ninety (90) days after such conversion for the purpose of electing a new Board of Directors. In all cases, the Developer shall be treated as a Member for purposes of this Declaration.

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8.5. **Board of Directors.** The Board of Directors of the Association shall be not less than three (3) nor more than five (5) in number. The initial Board of Directors pursuant to the Articles shall have three (3) members composed of the following:

Roy Spence, Delois Spence, and Steve Spence

who shall commence to serve at the time of recordation of this Declaration. Such original Directors shall serve at the pleasure of the Developer until such time that the Developer becomes a Class A Member of the Association and may be removed from office at any time by the Developer and during such period the Developer shall have authority, in its sole discretion, to fill any vacancies created or existing on the Board of Directors. The number of the Board of Directors shall be increased to five (5) members at the first meeting of the Members after the Developer becomes a Class A Member.

8.6. **Rules and Regulations.** The Association shall have the authority, from time to time, to make reasonable rules and regulations regarding the use and enjoyment of the Common Areas which are not inconsistent with this Declaration or the Articles or Bylaws, which rules and regulations shall be binding upon all Owners.

ARTICLE IX

ASSESSMENTS

9.1. **Establishment.** The Association shall have the responsibility and authority to assess each Lot for Common Expenses and, as applicable, Special Expenses and Restoration Assessments, and each Owner shall be personally liable for the payment of such assessments levied during the time any such Owner owns a Lot and the assessment applicable to each Lot shall be a charge and continuing lien upon each such Lot. If there is more than one Owner of a Lot, then each Owner is jointly and severally liable for all assessments provided herein. Annual Assessments are due and payable within 30 days of the beginning of each fiscal year.

9.3. **Annual Common Assessment.** Prior to the beginning of each fiscal year the Board of Directors shall, after taking into consideration all anticipated items of Common Expense for such fiscal year, together with a reasonable reserve for contingencies, fix and establish the amount of the Annual Common Assessment (the "Annual Common Assessment") applied to each Lot. The assessment shall apply to all Lots shown on the numbered Plat and shall accrue from the date the plat is filed. Initially the Assessment will be \$120 per year per Lot until such time as title to Common Areas are transferred from the Developer to the Association.

The Developer shall not be required to pay any assessments, including but not limited to initial, annual, special or restoration assessments. The Developer may, but without obligation during the Development Period, pay to the Association from time to time, as required, any amounts necessary (over and above payments to the Association by other Lot Owners) to satisfy the Association's current operating expenses on a cash basis. The Developer shall have no obligation to contribute any sums to the Association. This paragraph shall not be subject to amendment without the consent of the Developer. The Developer shall have the right to suspend Annual Common Assessments during the Development Period if the Developer so desires.

9.4. **Capital Assessment.** In addition to the Annual Common Assessment, the Board may from time to time levy a Capital Assessment for the purpose of construction, reconstruction, repair or replacement of any capital improvement upon the Common Areas, provided however, that such capital assessment shall receive the approval of a majority of all votes cast at a meeting of Owners called for such purpose in accordance with the Bylaws.

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The Developer shall not be required to pay any assessments, including but not limited to initial, annual, special or restoration assessments. The Developer may, but without obligation during the Development Period, pay to the Association from time to time, as required, any amounts necessary (over and above payments to the Association by other Lot Owners) to satisfy the Association's current operating expenses on a cash basis. The Developer shall have no obligation to contribute any sums to the Association. This paragraph shall not be subject to amendment without the consent of the Developer. The Developer shall have the right to suspend Annual Common Assessments during the Development Period if the Developer so desires.

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9.5. Special Assessments. Special Assessments may be fixed and established by the Association against certain Lots for the payment of Special Expenses. Such Special Assessment shall be due and payable by the Owners of the Lots relating to the Special Assessments to the Association upon demand. No Special Assessment shall be established against a Lot until the Owner thereof shall have been given the opportunity to present evidence on such Owner's behalf at a hearing, and no such hearing shall be held until at least ten (10) days after notice specifying the reasons for the proposed Special Assessment and the exact time and place of the hearing has been sent to such Owner at his or her current address of record on the Association's books. The decision of the Board of Directors shall be final and binding upon the parties.

9.6. No Exemptions. No Owner shall be exempt from liability for assessments duly established by the Association. Further, no diminution or abatement of assessments shall be allowed or claimed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or Lots or from any action taken to comply with any law, ordinance or order of a governmental authority.

9.7. Vendor's Lien. Each deed of a Lot by the Developer to an Owner shall be deemed to reserve (whether or not expressly reserved) a vendor's lien (the "Vendor's Lien") to secure payment of all assessments due and to become due pursuant to this Declaration, which Vendor's Lien shall be deemed to be transferred and assigned to the Association. By the acceptance of a deed from the Developer, each Owner (and such Owner's subsequent grantees) assumes and agrees to pay such assessments in accordance with the terms and provisions of this Declaration.

9.8. Subordination. If any lot subject to the Vendor's Lien reserved for the payment of the assessments due and to become due pursuant to the terms of this Declaration shall be subject to the lien of a mortgage: (i) the foreclosure of the Vendor's Lien reserved herein shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of the mortgage or the acceptance of a deed in lieu of foreclosure thereof shall not operate to affect or impair the Vendor's Lien reserved herein unless such mortgage secures indebtedness incurred for the purchase or improvement of the Lot, in which case such foreclosure or deed in lieu of foreclosure will discharge the Vendor's Lien in respect to assessments accruing prior to such foreclosure or deed in lieu. Any purchaser at such a foreclosure sale or recipient of a deed in lieu of foreclosure shall be deemed the Owner of the Lot acquired and shall, except in as stated above, be responsible for payment of all assessments accrued prior to and after the foreclosure sale or receipt of a deed in lieu of foreclosure.

9.9. Delinquent Assessments. The payment of an assessment shall be considered delinquent if not paid upon the due date thereof and shall bear interest from such date at the rate of eighteen percent (18%) per annum (or the maximum rate allowed by applicable law if less than eighteen percent (18%) per annum) until paid. The Association shall also be entitled to collect a late charge in such amounts and upon such conditions as the Board of Directors may from time to time determine, but not in excess of the maximum amount allowed by applicable law. Each Owner (whether one or more) shall be and remain personally liable for the payment of all assessments which may be levied against such Owner's Lot by the Association in accordance with the terms and provisions of this Declaration until the same shall be paid in full, both principal and interest. In the event of sale or conveyance of a Lot the purchaser of same shall be required and entitled to cause such delinquent assessments to be paid out of the sales price and, failing this, such purchaser shall become personally liable for payment of such delinquent assessments by such purchaser's acceptance of a deed to such Lot from an Owner in default.

9.10. Collection of Assessments. The Association may enforce collection of delinquent assessments by suit at law for a money judgment and may seek the appointment of a receiver and/or judicial foreclosure of the Vendor's Lien reserved and transferred to the Association.

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9.10. Collection of Assessments. The Association may enforce collection of delinquent assessments by suit at law for a money judgment and may seek the appointment of a receiver and/or judicial foreclosure of the Vendor's Lien reserved and transferred to the Association.

Failure to seek judicial foreclosure of such Vendor's Lien in any suit at law for a money judgment shall not operate to waive such Vendor's Lien, but the same shall remain in full force and effect to secure the payment of all assessments due or to become due by an Owner.

9.11. Commingleing of Assessments. Except as otherwise expressly provided herein, all assessments and funds collected by the Association may be commingled in a single fund, and without the necessity of a specific accounting for each element of Common Expense or Special Expense for which such assessments or collection have been made.

9.12. Assessment Roll. The assessments against all Owners shall be set forth upon a roll of the Lots which shall be available in the office of the Association for inspection at all reasonable times by Owners and Mortgagees or their duly authorized representatives. Such Assessment Roll shall indicate for each Lot the name and address of the Owner or Owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. A certificate signed by an officer of the Association as to the status of an Owner's assessment account shall limit the liability of any person for whom made other than the Owner. The Association shall issue such certificates to such persons as an owner may request in writing and shall be entitled to charge a reasonable fee therefor in such amount as shall be determined by the Board of Directors from time to time.

9.13. Mortgagee. An Owner who shall give a mortgage upon such Owner's Lot shall notify the Association with the name and address of such Mortgagee. Each Owner authorizes the Association to disclose information concerning the Lot, assessments (and payments thereof), as well as all other matters regarding the Development, and the operation and maintenance thereof, and the Association.

ARTICLE X

POWERS RESERVED TO THE DEVELOPER

10.1. Changes. The Developer reserves the right to make such changes in the boundaries and designations of Lots not sold to others, in any easement upon any unsold Lot and in the Common Areas, as the Developer deems advisable, provided that any such changes shall not have a material adverse effect upon the boundaries or the beneficial use and enjoyment of any Lot then owned by Owners other than the Developer, and provided that such changes shall have been approved by the governing regulatory agencies exercising jurisdiction thereof.

10.2. Owner Changes. Except as provided in paragraph 6.2, an Owner shall have no right to partition or divide any part of his or her Lot without the written consent of the Board of Directors.

ARTICLE XI

INSURANCE AND CASUALTY

11.1. Liability Insurance. The Association shall obtain and maintain comprehensive public liability insurance insuring the Association, any manager, the Developer and the Owners and occupants of Lots, and their respective family members, guests, invitees, and the agents and employees of each against any liability incident to the ownership or use of the Common Area or any other Association-owned or maintained real or personal property.

11.2. Fire Insurance. The Association shall obtain and maintain a master or blanket policy of fire insurance coverage for the full insurable value of all of the improvements within the

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11.2. Fire Insurance. The Association shall obtain and maintain a master or blanket policy of fire insurance coverage for the full insurable value of all of the improvements within the

Common Area. The policy shall provide types and amounts of coverage as shall be determined by the Board. The policy shall name as insured the Association, the Owners and, as long as the Developer is the Owner of any Lot, Developer.

11.3. Individual Fire Insurance Required. Each Owner shall obtain and maintain, at his or her expense, fire and casualty coverage as may be required by the Owner's individual Mortgagee or, if no mortgagee encumbers a Lot, fire and casualty coverage as may be determined by the Board, with respect to damage or destruction to improvements on the Owner's Lot. All such individually carried insurance shall also contain a waiver of subrogation rights by the carrier as to other Owners, the Association, the Developer, and any institutional first Mortgagee of such Lot.

11.4. Demolition, Accident, and Other Association Insurance. The Association may purchase and maintain demolition insurance in adequate amounts to cover demolition, in case of total or partial destruction of any Common Area improvements and a decision not to rebuild, and a blanket policy of flood insurance. The Association also may purchase and maintain accident insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Association also may purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150 percent of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation). The Association may purchase and maintain such insurance on personal property owned by the Association, and any other insurance, that it deems necessary or that is required by an institutional first mortgagee.

11.5. Right to Adjust Losses. The Association is authorized to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 11.1, 11.2, and 11.5. The Association is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

11.6. Director and Officer Liability Insurance. To the extent insurance is available, the Association may purchase and maintain insurance in an amount as may be authorized by the Members acting at their annual or special meetings, on behalf of any director, officer, or member of a committee of the Association (collectively the "agents") against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, regardless of whether the Association would have the power to indemnify the agent against such liability under applicable law.

ARTICLE XII

AMENDMENTS

12.1. Amendments. This Declaration may be amended by the vote of not less than seventy-five percent (75%) of the Members, and such amendment shall be evidenced by a document in writing bearing their signatures, and shall be certified by the Secretary or President of the Association and duly recorded in the appropriate Real Property Records maintained by the office of the County Clerk of Wood County, Texas. However, if the consent or approval of any governmental authority or other person, firm, agency, or entity is required under this Declaration with respect to any amendment, no such amendment shall become effective unless such consent or approval is obtained.

12.2. Amendments Conform With Mortgagee Requirements. It is the intent of the Developer that this Declaration and the Articles and Bylaws, and the Project in general shall now and in the future meet all requirements necessary to purchase, guarantee, insure, or subsidize any mortgage

Common Area. The policy shall provide types and amounts of coverage as shall be determined by the Board. The policy shall name as insured the Association, the Owners and, as long as the Developer is the Owner of any Lot, Developer.

11.3. **Individual Fire Insurance Required.** Each Owner shall obtain and maintain, at his or her expense, fire and casualty coverage as may be required by the Owner's individual Mortgagee or, if no mortgagee encumbers a Lot, fire and casualty coverage as may be determined by the Board, with respect to damage or destruction to improvements on the Owner's Lot. All such individually carried insurance shall also contain a waiver of subrogation rights by the carrier as to other Owners, the Association, the Developer, and any institutional first Mortgagee of such Lot.

11.4. **Demolition, Accident, and Other Association Insurance.** The Association may purchase and maintain demolition insurance in adequate amounts to cover demolition, in case of total or partial destruction of any Common Area improvements and a decision not to rebuild, and a blanket policy of flood insurance. The Association also may purchase and maintain accident insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Association also may purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150 percent of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation). The Association may purchase and maintain such insurance on personal property owned by the Association, and any other insurance, that it deems necessary or that is required by an institutional first mortgagee.

11.5. **Right to Adjust Losses.** The Association is authorized to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 11.1, 11.2, and 11.5. The Association is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

11.6. **Director and Officer Liability Insurance.** To the extent insurance is available, the Association may purchase and maintain insurance in an amount as may be authorized by the Members acting at their annual or special meetings, on behalf of any director, officer, or member of a committee of the Association (collectively the "agents") against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, regardless of whether the Association would have the power to indemnify the agent against such liability under applicable law.

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12.1. **Amendments.** This Declaration may be amended by the vote of not less than seventy-five percent (75%) of the Members, and such amendment shall be evidenced by a document in writing bearing their signatures, and shall be certified by the Secretary or President of the Association and duly recorded in the appropriate Real Property Records maintained by the office of the County Clerk of Wood County, Texas. However, if the consent or approval of any governmental authority or other person, firm, agency, or entity is required under this Declaration with respect to any amendment, no such amendment shall become effective unless such consent or approval is obtained.

12.2. **Amendments Conform With Mortgagee Requirements.** It is the intent of the Developer that this Declaration and the Articles and Bylaws, and the Project in general shall now and in the future meet all requirements necessary to purchase, guarantee, insure, or subsidize any mortgage

of a Lot in the Development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Veterans Administration. The Association and each Owner shall take any action or shall adopt any resolutions requested by the Developer and reasonably required by any Mortgagee to conform this Declaration to the requirements of any of these entities or agencies.

ARTICLE XIII

EASEMENTS

13.1. Utility Easements. There is hereby created an easement for all utilities as reflected on and in accordance with the Plat (including, but not limited to gas, electricity, water, cable, sewer, and other utility services commonly used by Lot Owners from time to time). Such easement shall also include mail and delivery services and the installation, repair and maintenance of receptacles for such services. All easements shall include the construction, repair and maintenance of such utilities.

13.2. Drainage Easement. There is hereby created an easement in favor of the Association for drainage on the Development as identified and reflected on and in accordance with the Plat or any amendments thereto including the private streets and roads, and such other drainage easements as may be needed from time to time in the Development. Such easement shall include the right to install, repair, maintain and clean all drainage areas.

13.3. Declarant's Easement to Correct Drainage. For a period of three (3) years from the date of conveyance of each Lot, the Developer or the Association shall have an easement and right on, over, and under the ground within the Development to maintain and correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance for the subdivision. Such right expressly includes the right to cut trees, bushes or shrubbery, make any grading of the soil or to take other similar action reasonably necessary, the following of which the Developer shall restore the affected property to its original condition as near as practicable. The Developer shall give timely notice of intent to take such action to all affected owners, unless, in the opinion of the Developer, an emergency exists which prevents such notice.

13.4. Easement to Inspect and Correct Violations. There hereby is created an easement in favor of the Association for ingress and egress to any Lot during reasonable hours:

- a. to inspect such lot for alleged violations of and/or compliance with architectural standards and/or approved plans for authorization and improvements, provided the Owner of such Lot is given notice of the purpose and time of such inspection at least three (3) days in advance thereof; and
- b. performing such correction of violations or such maintenance on the Lot as is required by the Declaration.

13.5. Easements for Governmental Personnel. A right of entry on any Lot or Common Area is hereby granted to law enforcement officers, fire and rescue and local animal control personnel and mail and delivery personnel as needed to carry out their duties.

ARTICLE XIV

DEFAULT AND ENFORCEMENT

14.1. **Default and Remedies.** Failure to comply with any of the terms of this Declaration, the Articles, the Bylaws or the rules and regulations, shall constitute an event of default and shall be grounds for relief, which may include without limitation an action by the Association or any aggrieved Owner to recover sums due for damages and injunctive relief, or any combination thereof.

14.2. **Costs.** In any proceeding arising because of any alleged default by an Owner, the Association or any aggrieved Owner, if successful, shall be entitled to recover the costs of the proceedings and reasonable attorneys' fees from such Owner as a Special Expense.

14.3. No Waiver. The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration, the Articles, the Bylaws or the rules and regulations, shall not constitute a waiver of the right of the Association or of any such Owner to enforce such rights, provision, covenant or condition in the future.

14.4. Rights Cumulative. All rights, remedies and privileges granted to the Association or any Owner pursuant to the provisions of this Declaration, the Articles, the Bylaws, or the rules and regulations, shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such party at law or in equity.

14.5. Enforcement. The Association, any Owner, the Developer, or any Mortgagee, as their interest may appear, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now and hereinafter imposed by the provisions of this Declaration.

ARTICLE XV

MISCELLANEOUS

15.1. Severability of Provisions. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate any other provisions.

15.2. Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

15.3. Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies set forth, may be abated or enjoined by any Owner, any member of the Board, the manager, or the Association.

15.4. No Discriminatory Restrictions. No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing, or occupancy of his or her Lot on the basis of race, sex, age, marital status, national ancestry, color or religion.

15.5. Interstate Land Sales Act. The Developer's activities comply with the applicable provisions of the Interstate Land Sales Act and the Developer intends to conduct its affairs in

ARTICLE XIV**DEFAULT AND ENFORCEMENT**

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15.5. Interstate Land Sales Act. The Developer's activities comply with the applicable provisions of the Interstate Land Sales Act and the Developer intends to conduct its affairs in

such a manner which shall continue to qualify it under a number of exemptions pursuant to said Act.

15.6. Owner's Access to Books. Any Owner may, at any reasonable time and upon reasonable notice to the Board or manager at his or her own expense, cause an audit or inspection to be made of the books and financial records of the Association.

15.7. Right to Variance. So long as the Developer controls a majority of the votes of the Association, the Developer reserves unto itself, its successors and assigns, the right and power to vary any restriction contained herein when, in the sole judgment of the Developer, such variance will relieve undue hardship or will otherwise be deemed to be in the best interests of the Development as a whole, provided, however, that any such variance or change shall not be more restrictive than the original restriction which is varied or changed, and provided further that such variance or change shall be reduced to writing and filed of record in Wood County, Texas, as an amendment to this Declaration without the necessity of the concurrence of any other Lot Owner.

15.8. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision of the Declaration shall not constitute a waiver of the right to enforce the provision thereafter.

15.9. Notification of Sale. Concurrently with the consummation of the sale of any Lot, or within five (5) business days thereafter, the new Owner shall give the Association notice of such sale. Such notification shall set forth the name of the new Owner and his or her mortgagee and the name of the old Owner, the common address of the Lot purchased, the new Owner's and the mortgagee's mailing address, and the date of sale. Before the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board, or the manager shall be deemed to be duly made and given to the new Owner if duly and timely made and given to the old Owner. Mailing addresses may be changed at any time upon written notification to the Association.

15.10. Number Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter, as the context requires.

15.11. Easements Reserved and Granted. All easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, whether or not a reference to this Declaration is made in a deed to any Lot.

15.12. Notices. All payments, requests, communications and notices required or permitted by law or this agreement shall be in writing and be deemed to have been duly delivered forty-eight (48) hours after being sent by either US postal service or private overnight package services to the address of record on the Associations books at the time of sending. Notices shall also be deemed received upon personal delivery to the mailbox of any Lot or to any occupant of a Lot over the age of twelve (12) years.

15.13. Binding Effect. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Developer, and the heirs, personal representatives, grantees, tenants, successors, and assigns of the Owners.

15.14. Duration. Except as amended, modified or changed in accordance with this Declaration, the Covenants, Conditions and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years, after which, it shall be automatically renewed for

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successive 10 year periods unless an instrument signed by ninety percent (90%) of all of the Members has been recorded, agreeing to replace said Covenants, Conditions and Restrictions in whole or in part; provided, however, that no such agreements to change shall be effective unless made and recorded ninety (90) days in advance of the effective date of such change, and such effective date coincides with the expiration date of the initial or any successive renewal periods.

IN WITNESS WHEREOF, the Developer has duly executed this Declaration this 24th day of January, 2001.

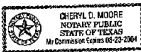
SPENCE & SPENCE DEVELOPER, INC.

By: Roy Spence
Its: Roy Spence, President

STATE OF TEXAS

COUNTY OF WOOD

This instrument was acknowledged before me on January 24, 2001, by ROY SPENCE, President of SPENCE & SPENCE DEVELOPER, INC., a Texas corporation, on behalf of said corporation.



Cheryl D. Moore
Notary Public, State of Texas

FILED AND RECORDED THE 24TH DAY OF JAN, 2001 AT _____ O'CLOCK _____ M
BRENDA TAYLOR, COUNTY CLERK WOOD COUNTY, TEXAS

BY _____ DEPUTY

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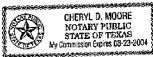
SPENCE & SPENCE DEVELOPER, INC.

By: Roy Spence
Its: Roy Spence, President

STATE OF TEXAS

COUNTY OF WOOD

This instrument was acknowledged before me on January 24, 2001, by ROY SPENCE, President of SPENCE & SPENCE DEVELOPER, INC., a Texas corporation, on behalf of said corporation.



Cheryl D. Moore
Notary Public, State of Texas

FILED AND RECORDED THE 24TH DAY OF JAN, 2001 AT 0'CLOCK M
BRENDA TAYLOR, COUNTY CLERK WOOD COUNTY, TEXAS

BY _____ DEPUTY