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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
AUSTIN OAKS

THE STATE OF TEXAS       §  
  §  
COUNTY OF TARRANT      §

THIS DECLARATION is made on the date hereinafter set forth by AUSTOAK, INC., a Texas corporation, hereinafter called "Declarant".

RECITALS:

A. Declarant is the owner of that certain real property (the "Property") known as AUSTIN OAKS, an Addition to the City of Grapevine, in Tarrant County, Texas, according to map or plat thereof recorded in Cabinet A, Hanger 408 of the Map or Plat Records of Tarrant County, Texas, and being more fully described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes

B. Declarant desires to place certain covenants, conditions and restrictions upon the Property in order to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of residential lots in said subdivision.

C. Declarant desires to provide for a flexible and reasonable scheme for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use, and enjoyment of the Property as is now or may hereafter be subjected to this Declaration.

NOW, THEREFORE, Declarant does hereby adopt, establish and impose the following covenants, conditions and restrictions upon the Property and all Lots within the Property, and all additional property which may hereafter be added and/or subjected to the provisions of this Declaration which shall constitute covenants running with the land as to such Property. Declarant hereby declares that the Property and any additional property that may subsequently be added to and subjected to this Declaration shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following easements, restrictions, covenants and conditions (the "Covenants and Restrictions") which are for the purpose of protecting the value and desirability of the Property, shall run with the real property subjected to this Declaration, and shall be binding on all parties having or acquiring any right, title, or interest in the described Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

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

Section 1.01. "Area of Common Responsibility" or "Common Properties" shall mean those areas, if any, within or upon the Property, or any Lot, the maintenance, repair or replacement of which is or becomes the responsibility of the Association, together with those areas, if any, which by contract with or ordinance of the local governmental authority is or becomes the responsibility of the Association.

Section 1.02. "Association" shall mean and refer to AUSTIN OAKS HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation which has the power, duty and responsibility of maintaining and administering the

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properties described in this Declaration, collecting the assessments and charges hereinafter prescribed and administering and enforcing the Covenants and Restrictions.

Section 1.03. "Board" shall mean the board of directors of the Association.

Section 1.04. "Bylaws" shall mean the bylaws of the Association and all amendments thereto.

Section 1.05. "Committee" shall mean the Architectural Control Committee established pursuant to this Declaration.

Section 1.06. "Common Expenses" shall mean all lawful expenditures incurred by or on behalf of the Association, including but not limited to the actual and estimated expenses of operating the Association and any reasonable reserve, all as may be found to be necessary and appropriate pursuant to the Documents.

Section 1.07. "Declarant" shall mean and refer to the Declarant named on the first page of this Declaration, its successors or assigns. No person or entity merely purchasing one or more Lots from such Declarant in the ordinary course of business shall be considered as "Declarant." The term Declarant shall include any lender who acquires the Property or succeeds to the interest of the Declarant in the Property by foreclosure, deed-in-lieu of foreclosure or otherwise.

Section 1.08. "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions, and all amendments thereto, as recorded in the Deed Records of Tarrant County, Texas.

Section 1.09. "Documents" shall mean this Declaration, the Bylaws, the Articles of Incorporation of the Association, the rules and regulations of the Association from time to time in effect, and all amendments to any of the foregoing.

Section 1.10. "Dwelling" shall mean an individual residential dwelling unit constructed on any Lot, including any parking garage, and the Lot upon which the Dwelling is located.

Section 1.11. "Eligible Holder" shall mean any holder of a first lien against a Lot who has requested notice of the matters to which such holder is entitled to receive notice in accordance with the provisions of this Declaration. Requests for notice from prospective Eligible Holders must be sent in writing to the Association, must specify the name and address of the lender, and must clearly identify the Lot or portion of the Property in which the Eligible Holder holds an interest which entitles it to receive notice as provided herein.

Section 1.12. "Lot" shall mean and refer to any portion of the Property designated as a lot on the Subdivision Plat of the Property, excluding Common Properties, if any, streets and alleys. Where the context requires or indicates, the term Lot shall include the Dwelling and all other improvements which are or will be constructed on the Lot.

Section 1.13. "Member" shall mean and refer to each member of the Association. Every Owner shall be a Member.

Section 1.14. "Mortgagee" shall mean the beneficiary or holder of any deed of trust or mortgage affecting any Lot.

Section 1.15. "Owner" shall mean and refer to each and every person or business entity who is a record owner (whether by foreclosure or otherwise) of a fee or undivided fee interest in any Lot subject to these Covenants and Restrictions; however, the word "Owner" shall not include persons or entities which hold a lien or interest in a Lot merely as security for the performance of an obligation.

Section 1.16. "Property" or "Properties" shall mean and refer to all land which is described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes, and any additional land made subject to the terms hereof pursuant to the provisions set forth herein.

Section 1.17. "Subdivision Plat" shall mean and refer to the map or plat of AUSTIN OAKS recorded in Cabinet A, Hanger 408 of the Map or Plat Records of Tarrant County, Texas, or as such may be amended.

## ARTICLE II

### PROPERTY SUBJECT TO DECLARATION

Section 2.01. Property. The Property, including every Dwelling and Lot, is and shall be held, transferred, sold, conveyed, leased and occupied subject to this Declaration and all amendments thereto. Every Owner shall be responsible to the Association and to the other Owners for the conduct of his family, guests, employees, agents, contractors, tenants and his tenant's family, guests, employees, agents and contractors on the Property and their compliance with provisions of this Declaration. Nothing contained in this Declaration shall be understood or construed to prohibit or interfere with any rights, reservations or easements expressly granted herein to Declarant.

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

(a) The Declarant may add or annex additional Lots and/or Common Properties located within a two (2) mile radius of the Property to the scheme of this Declaration by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions which shall extend the scheme of the Covenants and Restrictions of this Declaration to such property; provided, however, that no Supplementary Declaration shall be executed and recorded by Declarant pursuant to this section more than five (5) years after the date of recordation of this Declaration.

(b) The annexations authorized by this Declaration shall be accomplished by executing and filing of record in the office of the County Clerk of Tarrant County, Texas, a Supplementary Declaration of Covenants, Conditions and Restrictions or similar instrument, with respect to the additional real property, which shall extend the plan of this Declaration to such real property. Any such Supplementary Declaration contemplated above may contain such additions, deletions and/or modifications of the covenants, conditions, restrictions, easements, liens and charges contained in this Declaration as may be necessary to reflect the different character, if any, of such annexed real property and as are not substantially inconsistent with the plan of this Declaration. In no event, however, shall any such Supplementary Declaration, or any merger or consolidation revoke, modify or add to the covenants, conditions, restrictions, easements, liens or charges established by this Declaration, as same relate to and affect that portion of the Property previously subject to this Declaration. Further, the rate of assessment for and method of determining the assessed valuation of the annexed property shall not result in an assessment substantially less than that affecting the Property unless such annexed property and the owners thereof do not enjoy substantially all of the benefits of the Owners of the Property previously subject to this Declaration. Any annexation, merger or consolidation made pursuant to this Declaration, when made, shall automatically extend the functions, powers and jurisdiction of the Association to the real property so added.

ARTICLE III

RESERVATIONS, EXCEPTIONS AND DEDICATIONS

Section 3.01. Recorded Subdivision Plat of the Properties. The Subdivision Plat dedicates for use as such, subject to the limitations as set forth therein, the streets and easements shown thereon and further establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum set-back lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein, and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed, conveying any Lot, whether specifically referred to therein or not.

Section 3.02. Easements. Declarant, for and on behalf of itself and the Association, reserves the easements and rights-of-way as shown on the Subdivision Plat, and further reserves an easement and right-of-way over all Common Properties, for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas, sewers, cable television or any other utility Declarant sees fit to install in, across or under the Properties. Declarant, for and on behalf of itself and the Association, reserves the right to make changes in and additions to the above easements for the purpose of more efficiently and economically installing the improvements. Declarant, for and on behalf of itself and the Association, reserves the right to grant or assign easements and other rights of use over the easements shown on the Subdivision Plat and all Common Properties to any public utility, political subdivision having jurisdiction over the Property, or utility company, for the purposes described herein. Neither Declarant, the Association, nor any public utility, political subdivision or utility company using the easements herein referred to shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, trees or flowers or any other property of the Owner on the land covered by said easements. Declarant, the Association, and any public utility, political subdivision or utility company shall have the right to remove and keep all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective utility system on any easement strips, and shall, at all times, have the right of egress and ingress to and from and upon said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or any part of its respective utility system without the necessity at any time of procuring the permission of anyone.

Section 3.03. Ingress, Egress and Maintenance. Declarant and the Association shall at all times have full rights of ingress and egress over and upon the Common Properties for the purpose of maintaining the Common Properties as set forth herein.

Section 3.04. Police Power Easement. With respect to the Common Properties and streets, easements and rights-of-way within the Properties, the City of Grapevine and all other governmental agencies and authorities shall have full rights of ingress, egress, regress and access for personnel and emergency vehicles for maintenance, police and fire protection, drainage and other lawful police powers designed to promote the health, safety and general welfare of the residents within the Property.

Section 3.05. Installation of Paving. Declarant reserves the right, during installation of paving of the streets and alleys as shown on the Subdivision Plat, to enter onto any portion of the Property for the purpose of disposing of street excavation, including the removal of any trees, if necessary, whether or not any such portion of the Property has been conveyed to or contracted for sale to any other Owner.

Section 3.06. Title Subject to Easements. It is expressly agreed and understood that title to the Properties shall be subject to any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph, telephone, or cable television purposes. Any conveyance of any Lot shall not be deemed to transfer any interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by Declarant or any easement owner

through, along, or upon the premises affected thereby, or any part thereof. The right to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved for the benefit of the Declarant and/or the Association.

#### ARTICLE IV.

##### ASSOCIATION

Section 4.01. The Association. The Association shall be formed as a non-profit corporation in accordance with the laws of the State of Texas under the name "Austin Oaks Homeowners' Association, Inc." or a similar name, depending upon the then-existing availability of such corporate name for the purposes set forth herein. The Association, acting through its Board, shall have the power to enforce the Covenants and Restrictions and all other terms contained in this Declaration, and, subject to the provisions set forth herein, shall also have the following powers:

(a) To amend, modify or delete any provision of this Declaration.

(b) To grant variances from the restrictions and obligations set forth herein.

(c) To set forth and modify or amend the uses, restrictions, covenants and conditions of this Declaration.

(d) To enforce the obligations and covenants of any Owner as set forth herein.

(e) To exclude portions of the Property from the covenants, conditions, restrictions and other provisions set forth herein by amendment to this Declaration.

(f) To designate portions of the Property as Areas of Common Responsibility.

Declarant, the Association and the Board shall never be under any obligation to enforce the Covenants and Restrictions and other provisions of this Declaration, and any failure to so enforce shall never give rise to any liability whatsoever on the part of the Declarant, the Association, the Board or their respective employees, officers, directors, successors or assigns.

Section 4.02. Additional Powers. The Association, to the extent the Board deems appropriate to further the purposes of the Association, shall have the power to own real and personal property, open bank accounts, contract for legal, accounting and other professional services, retain employees, and to otherwise do that which the Board believes is necessary or prudent to carry out the provisions of this Declaration or to conduct the business and affairs of the Association.

#### ARTICLE V.

##### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 5.01. Membership. Every Owner, including the Declarant, shall automatically be a Member of the Association. Membership shall be appurtenant to and inseparable from ownership of a Lot. Transfer of ownership, either voluntarily or by operation of law, shall terminate such Owner's membership in the Association, and membership shall be vested in the transferee; provided, however, that no such transfer shall relieve or release such Owner from any personal obligation with respect to assessments which have accrued prior to such transfer.

Section 5.02. Voting Rights. The Association shall have two classes of membership.

CLASS A: Class A Members shall be all Members other than the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

CLASS B: The sole Class B Member shall be the Declarant. The Declarant, as the sole Class B Member, shall be entitled to three (3) votes for each Lot it owns. When any Class B Member transfers ownership of a Lot to any person or entity other than a Class B Member, the Class B membership with respect to such Lot shall terminate. The Class B membership, as a whole, shall cease and shall be converted to Class A membership:

(i) when the total number of votes outstanding in the Class A membership is greater than the total number of votes outstanding in the Class B membership; or

(ii) on the third (3rd) anniversary date of the recording date for this Declaration;

whichever occurs first in time (the "Declarant Control Period").

Section 5.03. Quorum, Notice and Voting Requirements.

(a) Except as specifically set forth elsewhere in this Declaration, any action authorized by this Declaration shall require the assent of a majority of the outstanding votes of the Association in attendance in person or by proxy at a duly called meeting at which a quorum is present, written notice of which shall be given to all Members not less than ten (10) days nor more than sixty (60) days in advance and shall set forth the purpose of such meeting.

(b) The quorum required for any action referred to in Paragraph (a) of this Section shall be as follows:

At any meeting called, the presence at the meeting of Members, or of legitimate proxies, entitled to cast ten percent (10%) of the votes of each class of Members of the Association shall constitute a quorum; provided, however, that with respect to any action authorized by Section 12.06(b) at the first such meeting called, the presence at the meeting of Members or of legitimate proxies entitled to cast sixty percent (60%) of the votes of each class of Members of the Association shall constitute a quorum, and if the required quorum is not present at the first such meeting called, another meeting may be called at any time prior to the expiration of sixty (60) days following the preceding meeting, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

(c) As an alternative to the procedure set forth above, any action referred to in subsection (a) of this Section may be taken with the assent given in writing and signed by Members who collectively hold or control more than sixty-seven percent (67%) of the outstanding votes of each class of Members of the Association.

(d) Except as specifically set forth in paragraph (a) above or elsewhere in this Declaration:

(i) during the period of time that the Association is unincorporated, the Declarant shall have the sole right and option to prescribe reasonable procedures for meetings (if any) of the Members; and

(ii) subsequent to incorporation, notice, voting and quorum requirements for the Association shall be consistent with its Articles of Incorporation and Bylaws, as the same may be amended from time to time.

Section 5.04. Suspension of Voting Rights. The voting rights of any Member set forth in this Declaration may be suspended by the Board for any period during which any assessment remains past due, unless the Member is in good faith contesting the validity or amount of the assessment.

## ARTICLE VI

### GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS OF THE ASSOCIATION

Section 6.01. Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors (herein sometimes referred to as the "Board"). Upon the incorporation of the Association, the Declarant shall select and appoint the Board of Directors. From and after the effective date of the Association's incorporation, the Board shall be selected in accordance with the Articles of Incorporation and Bylaws of the Association.

The Board shall have the following additional rights, powers and/or duties:

(a) To make available to each Owner within ninety (90) days after the end of each year an annual report;

(b) Pursuant to the provisions of this Declaration, to adjust the amount collect and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;

(c) To, at the discretion of the Board, enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules; and

(d) Upon the written request of any mortgagee, insurer or guarantor of any first mortgage on any Lot, provide a financial statement of the operations of the Association for the preceding fiscal year.

Section 6.02. Board Powers Exclusive. The Board shall have the exclusive right to contract for all goods, services, and insurance, and the exclusive right and obligation to perform the functions of the Board, except as otherwise provided herein.

Section 6.03. Maintenance Contracts. The Board, on behalf of the Association, shall have full power and authority to contract with any Owner (including, without limitation, the Declarant) or Member for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

Section 6.04. Liability Limitations. Neither any Owner, Member, the Board, any director, nor any officer of the Association shall be personally liable for debts contracted for, or otherwise incurred by the Association, or for a tort of any other Member or Owner whether such other Member or Owner was acting on behalf of the Association or otherwise. Neither the Declarant, the Association, nor their respective directors, officers, agents or employees shall be liable for any incidental or consequential damages for

failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same. The Declarant, the Association or any other person, firm or corporation required to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portion thereof.

Section 6.05. Right to Self-Help. In addition to any other rights or remedies provided for herein, the Association or its duly authorized agent is hereby granted the right and power to enter upon a Lot to abate or remove, using such force as may reasonably be necessary, any erection, thing or condition which violates the provisions of the Documents. Unless an emergency situation exists, the Board shall give the violating Owner ten (10) days written notice of its intent to exercise self-help. All costs of self-help including reasonable attorney's fees actually incurred, shall be an assessment against the Lot and shall be collected as provided for herein for the collection of assessments.

## ARTICLE VII

### MAINTENANCE ASSESSMENTS

Section 7.01. Assessments for Common Expenses. All Owners shall be obligated to pay the assessments imposed by the Association to meet the Common Expenses. Assessments for the estimated Common Expenses shall be due yearly in advance on or before the 1st day of March each year (the "Due Date"). Failure to pay within thirty (30) days of the Due Date shall require the imposition and assessment of a late charge of Twenty-five Dollars (\$25.00). Contributions for yearly assessments shall be prorated if the ownership of a Lot commences on a day other than the Due Date.

Section 7.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, welfare and recreation of the residents in the Property, and in particular for the improvement, maintenance and preservation of the Property, and the services and the facilities devoted to said purposes that are related to the use and enjoyment of both the Areas of Common Responsibility and the Dwellings situated upon the Property.

Section 7.03. Determination of Assessments. The assessments shall be determined by the Board based upon the cash requirements necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Areas of Common Responsibility. This determination may include, among other items, taxes, governmental assessments, landscaping and grounds care, lighting, repairs and renovation, garbage collections, wages, water charges, legal and accounting fees, management costs and fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, expenses incurred in the operation and maintenance of any recreation and administrative facilities, payment of any deficit remaining from a previous period and the creation of a reserve contingency fund. The omission or failure of the Board to fix the assessment for any year shall not be deemed a waiver, modification or a release of the Owners from the obligation to pay.

Section 7.04. Initial Assessment and Maximum Monthly Assessment.

a. At least thirty (30) days prior to March 1, the Board shall determine the annual budget for the Association and shall set the yearly assessment for the next succeeding year. Said yearly assessment shall not exceed one hundred twenty percent (120%) of the yearly assessment allowed for the preceding year. If the Board determines at any time during the calendar year that a greater increase of the yearly assessment is required to adequately perform the duties and responsibilities of the Association and pay all expenses thereof, then the Board may call a special meeting of the Owners. By the assent of a two-thirds (2/3) vote of the quorum of Owners, present at such meeting, the yearly assessment may be set at whatever level such Owners

approve. The new assessment shall become the basis for future annual increases, using the one hundred twenty percent (120%) formula, as above outlined.

b. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new assessments for any year, or shall be delayed in doing so, each Owner shall continue to pay each year the amount of his respective yearly assessment as last determined.

c. The Board shall have authority to lower the yearly assessment, if it deems feasible.

Section 7.05. Special Assessments for Improvements. In addition to the annual assessments authorized above, the Association, through the Board, may levy at any time during the calendar year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, Common Expenses not anticipated by the annual budget, contingency or reserve funds, including the cost of construction or reconstruction, repair or replacement of the Common Properties, as well as the necessary fixtures and personal property related thereto. Any such assessment must be approved by a two-thirds (2/3) vote of the quorum of Owners voting in person or by proxy at a meeting duly called for this purpose. The Declarant will be treated as all other Owners for purposes of special assessments.

Section 7.06. Commencement of Assessments. The yearly assessments provided for herein shall commence on the 1st day of March, 1992. The assessments shall be prorated if the ownership of a Lot commences on a day other than the Due Date during the year. On Lots owned by the Declarant, the assessments shall commence on the 1st day of March during the year after the Declarant Control Period is terminated, in accordance with Paragraph 7.11 herein.

Section 7.07. No Exemption. No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Dwelling.

Section 7.08. Lien for Assessments.

a. All common yearly assessments and special assessments assessed but unpaid by an Owner for its share of Common Expenses chargeable to its respective Lot, including interest thereon at ten percent (10%) per annum, plus late charges and any attorney's fees incurred by the Association in order to enforce compliance by any Owner with the terms of this Declaration, the Bylaws, Articles of Incorporation, or Rules and Regulations of the Association, shall constitute a lien on such Lot superior (prior) to all other liens and encumbrances, except only for:

(1) All taxes and special assessments levied by governmental and taxing authorities; and

(2) All liens securing sums due or to become due under any prior recorded purchase money mortgage, vendor's lien or deed of trust.

b. To evidence such lien the Association may, but shall not be required to, prepare written notice setting forth the amount of such unpaid indebtedness, the name of the Owner and a legal description of the Lot. Such notice shall be signed by one (1) member of the Board and may be recorded in the Office of the Clerk and Recorder of Tarrant County, Texas. Such lien for the Common Expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association. Any such foreclosure sale is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Texas Property Code, as amended from time to time, or in

any manner permitted by law. Each Owner, by accepting a deed to his Lot, expressly grants to the Association a power of sale, as set forth in said Section 51.002, in connection with the assessment lien. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs the expenses for filing the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association a reasonable rental for the Dwelling during the period of foreclosure, that being the point in time after the foreclosure is posted, and the Association shall be entitled to a receiver to collect same. The Association shall have the power to bid in the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

c. The amount of the Common Expenses assessed against each Lot shall also be a debt of the Owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same.

d. In addition, to the extent permitted by law, Declarant reserves and assigns to the Association, without recourse, a vendor's lien against each Lot to secure payment of a common assessment or special assessment which is levied pursuant to the terms hereof. Said liens may be enforced by appropriate judicial proceedings and the expenses incurred in connection therewith, including, but not limited to, interest, costs and reasonable attorney's fees, shall be chargeable to the Owner in default. Such lien shall be subordinated and inferior to those liens listed in Subparagraphs 7.08a(1) and (2).

e. Any encumbrancer holding a lien on a Lot may pay any unpaid Common Expense payable with respect to such Lot, and upon such payment, such encumbrancer shall have a lien on such Lot for the amount paid of the same rank as the lien of his encumbrance.

Section 7.09. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any recorded mortgage or mortgages granted or created by the Owner of any Lot to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Lot. Sale or transfer of any Lot shall not affect the assessment lien, provided, however, that the sale or transfer of any Lot pursuant to a foreclosure, a deed in lieu of foreclosure, assignment in lieu of foreclosure under such purchase money or improvement mortgages or deeds of trust shall extinguish the lien of such assessments as to payments thereof coming due prior to such sale or transfer, except for claims for its pro-rata share of such assessments resulting from a reallocation among all Lots which reallocation, if necessary, will require a readjustment of the common assessment as provided in Paragraph 7.04b. No sale or transfer shall relieve such Lot, or the Owners thereof, from liability for any assessments thereafter becoming due or from the lien thereof.

Section 7.10. Statement of Assessments. Upon the written request of any Owner or any encumbrancer or prospective encumbrancer of a Lot, the Association, by its Board, shall issue a written statement setting forth the unpaid assessments, if any, with respect to the subject Lot, the amount of the current yearly assessments, the date of such assessment and the Due Date, and credit for advance payments or for prepaid items, which shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid assessments which become due prior to the date of making of such request shall be subordinate to the lien of the person requesting such statement.

The purchaser, donee or other transferee of a Lot, by deed or other writing (herein called "Grantee"), shall be jointly and severally liable with the transferor of such Lot (herein called "Grantor") for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from Grantor the amounts paid by the Grantee, but

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such Grantee shall be personally liable only if he expressly assumes such liability. The Grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid assessments, if any, with respect to the subject Lot, the amount of the current yearly assessment and the date such assessment becomes due, as well as any credit for advanced payments or for prepaid items. This statement shall be conclusive upon the Association. Unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, such Grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the subject Lot accruing prior to such ten (10) day period.

Section 7.11. Obligation of Declarant for Assessments and Maintenance. During the Declarant Control Period, as provided in Section 5.02 hereof, the Declarant shall be responsible for the difference between the cost of maintenance and assessments received from the other Owners and shall not be limited to the regular yearly assessments for Lots owned by Declarant until the end of the Declarant Control Period or until Declarant, at its option, chooses to make regular yearly payments, whichever first occurs. Should Declarant elect not to make regular yearly assessments, Declarant shall provide any additional funds necessary to pay actual cash outlays required to fund current operating expenses of the Association. After the Declarant Control Period is terminated or earlier at Declarant's option, Declarant shall pay the regular yearly assessment for each Lot it owns.

#### ARTICLE VIII

##### REPAIR AND RESTORATION

Section 8.01. Destruction of Improvements on Individual Lots. In the event of damage or destruction (total or partial) of the improvements on any individual Lot due to fire or any other cause, each Owner covenants and agrees to commence all necessary repairs, reconstruction or removal of the damaged improvements within sixty (60) days of the date the damage occurs and to complete such repairs, reconstruction or removal to completion within a reasonable time from the commencement of such work. In the event repair, reconstruction or removal of such improvements is not commenced within such sixty (60) day period, and such failure continues for a period of ten (10) days following delivery of notice to the Owner, Declarant or the Association may cause the improvements to be removed and the Lot cleared, with the expense of removal and Lot clearing to be paid by the Owner. In the event of such removal and clearing, neither the Association nor Declarant shall be liable in trespass or for damages, expenses, costs, or otherwise for such removal and clearing. Neither the Board nor the Association shall be obligated to enforce the covenants set forth in this Section.

#### ARTICLE IX

##### PROTECTIVE COVENANTS

Section 9.01. Land Use and Building Type. All Lots shall be known, described and used as Lots for residential purposes only and, except as otherwise provided herein, no structure shall be erected, altered, placed, or permitted to remain on any Lot other than one single-family dwelling, constructed in place, not to exceed thirty-five (35) feet, or two (2) stories in height. As used herein, the term "residential purposes" shall be construed to prohibit the use of Lots for duplex houses, garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind or for any commercial or manufacturing purpose. Except for portable storage and accessory buildings permitted pursuant to the terms of this Declaration, no modular, prefabricated or other building or residence of any kind or character shall ever be assembled on or moved onto any Lot, it being the intention that only new in place construction of residential structures shall be permitted on the Lots.

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Section 9.02. Minimum Floor Space. Each Dwelling shall contain the following minimum square feet of air conditioned area, exclusive of all porches, garages or breezeways attached to the main dwelling:

Total Minimum Square Footage of Residence

2000 square feet

Ground Floor Minimum of Residence if 1-1/2 or 2 story dwelling

Sixty percent (60%) of total square footage of residence

Section 9.03. Type of Construction and Materials. No Dwelling shall be erected on any Lot of materials other than brick, stone, brick veneer, stone veneer, stucco type material or other masonry materials unless the above-named materials constitute at least seventy-five percent (75%) of the total outside wall areas, with such materials constituting not less than fifty percent (50%) of any outside wall surface. Gables or other exterior areas above the height of the top of the standard first floor windows are excluded from this restriction.

Section 9.04. Roofs. All roofs shall be Class A composition shingles of approximate weight of 250 pounds per square, or better. Any other roofing materials, such as slate or other permanent type roofing, must be comparable or better than the roof materials specified herein as far as appearance, durability, strength and fire resistance rating. No other roofing materials will be allowed unless expressly approved in writing by the Board.

Section 9.05. Building Location. No building shall be located on any Lot nearer to the front or side street or interior property line than the minimum building setback lines shown on the Subdivision Plat. All residential structures shall be constructed on the Lots within the building lines established on the Subdivision Plat. No building shall be located on Lots 1 through 5, inclusive, Block 7, and Lots 44 through 51, inclusive, Block 6 nearer to the rear or back property line than forty (40) feet. All other structures, including without limitation, swimming pools, fences and storage buildings, shall be constructed within the building and setback lines established from time to time by the Board, the Association or the City of Grapevine.

Section 9.06. Garages. Each single-family residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles. All garage doors shall be closed at all times when not in use. All Dwellings with alley access to the side or rear of a Lot are not permitted to have the garage directly facing the frontage streets. Garage doors must be architecturally trimmed to be compatible with the dwelling design. No carport shall be constructed on any Lot unless previously approved in writing by the Board.

Section 9.07. Sidewalks. A concrete sidewalk four (4) feet wide shall be maintained by each Owner parallel to, and located in the right-of-way one (1) foot outside the property lines of the Lot adjacent to both front and side streets, and the plans for each residential structure on each of the Lots shall include plans and specifications for such sidewalk.

Section 9.08. Screening and Fences.

(a) No fence or wall shall be erected, placed or altered on any Lot nearer to any front street than the minimum building setback lines as shown on the Subdivision Plat. No fence or wall shall exceed the height limitations imposed by the Board. Fences shall be constructed only of solid wood, masonry or wrought iron materials, and no chain link or wire fencing will be allowed unless expressly approved by the Board.

(b) All clotheslines, wood piles, tool sheds, air conditioners and air-conditioning equipment, sanitation facilities or other service facilities must be enclosed with fences, walls or landscaping so as not to be generally visible by the public unless

otherwise approved by the Board in writing. No air conditioning units or apparatus may be installed on the street side of any Dwelling.

Section 9.09. Removal of Dirt. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as approved by the Board in conjunction with landscaping, drainage or construction of improvements thereon.

Section 9.10. Minimum Lot Area. No Lot may be resubdivided.

Section 9.11. Annoyance or Nuisances. No noxious or offensive activity may be carried on upon any Lot. Nothing shall be done upon any Lot which may be or become an annoyance or a nuisance to the neighborhood. The Board, in its reasonable discretion, shall determine what constitutes a noxious or offensive activity.

Section 9.12. Temporary Structures and Vehicles.

(a) No structure of a temporary character, whether trailer, tent, shack, garage, barn or outbuilding shall be maintained or used on any Lot at any time as a residence, either temporarily or permanently; provided, however, Declarant reserves the exclusive right to erect, place, maintain and permit such facilities in or upon any portions of the Property as in its sole discretion may be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Property. Such facilities include but are not limited to sales and construction offices, storage areas, model units, signs, and portable toilet facilities.

(b) No truck with tonnage in excess of three-quarter (3/4) ton, camper, motor home, trailer, vehicle of any type (whether or not operable), or boat (whether powered, sail or otherwise), other than a conventional automobile, may be parked, kept or stored on any Lot (except in a garage) or in any street, for more than twelve (12) hours during any twenty-four (24) hour period, unless parked, stored or placed within the garage on the appropriate Lot, or within the building lines of such Lot and screened from the view of the general public.

Section 9.13. Signs and Billboards. No signs, billboards, posters, or advertising devices of any character shall be erected, permitted, or maintained on any Lot or Dwelling, except, subject to the Board's right to require removal of any distasteful, unsightly, weathered or abandoned signs, one sign of not more than six (6) square feet in surface area advertising the particular Lot or residence on which the sign is situated for sale or rent. The right is reserved by Declarant to construct and maintain such signs, billboards or advertising devices as are customary in connection with the general sale of residential property.

Section 9.14. Oil and Mining Operations. No oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas or other minerals shall be erected, maintained or permitted upon any Lot.

Section 9.15. Storage and Disposal of Garbage and Refuse. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or rubble. All trash receptacles shall be screened by fences or shrubbery so as not to be generally visible by the public, unless otherwise approved in writing by the Board. All equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. No Lot shall be used for the open storage of any materials whatsoever which materials are visible from the street, except that new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot.

Section 9.16. Visual Obstructions at the Intersections of Public Streets. No object, including vegetation, shall be permitted on any corner Lot which obstructs sight lines parallel to the ground surface at elevations between two feet (2') and six feet (6') above the roadways, and lies within a triangular area on any corner Lot described by three points, two such points being at the edge of the paving abutting said corner Lot and at the end of twenty-five feet (25') back along the curb on the two intersecting streets abutting said corner Lot, and the third point being the center of the corner curb curve abutting said Lot.

Section 9.17. Antennae. No radio, television or other aerial antenna, disk, satellite or microwave dish, tower, or similar transmitting or receiving structure, or support therefor, shall be erected, installed, placed or maintained on any Lot for any purpose, nor shall any such structure be affixed to the outside of any Dwelling on any Lot, except as may be allowed by the Board.

Section 9.18. Animals. No animals, reptiles, livestock, poultry or birds of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept in reasonable numbers, provided that they are not kept, bred or maintained for any commercial purpose. Horses, reptiles, ponies, goats, sheep, hogs, pigs, monkeys, chickens, ducks, peacocks, pigeons, and guinea fowl shall not be deemed as household pets and are expressly prohibited.

Section 9.19. External Sculpture and Like Accessories. No sculptures, fountains, flags (other than state or federal on appropriate holidays) and like accessories shall be installed, maintained or permitted on any Lot without the prior approval of the Board.

Section 9.20. Compliance With Ordinances and Regulations. All improvements constructed on Lots shall comply with and all Lots shall be used in accordance with applicable ordinances or regulations of the City of Grapevine, Texas, or any other applicable governmental authority.

Section 9.21. Inflammatory or Explosive Cargo. No vehicle of any size which transports inflammatory or explosive cargo may be kept within the Property at any time.

Section 9.22. Construction Period. Once commenced, construction shall be diligently pursued to the end that it may not be left in a partially completed condition any longer than reasonably necessary.

Section 9.23. Utilities. Except as to special street lighting or other aerial facilities which may be required by the City of Grapevine or may be required by the franchise of any utility company, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed within the Property, whether upon Lots, easements, streets, or right-of-way of any type, either by the utility company or any other person or entity (including but not limited to any person owning or acquiring any part of the Property) and all utility service facilities (including but not limited to water, sewer, gas, electricity and telephone) shall be buried underground, under recreational easements, streets, or utility easement areas for the purpose of serving any structure located on any part of the Property. All utility meters, equipment, air conditioning compressors, pool service equipment and similar items must be visually screened and located in areas designated by the Board.

Section 9.24. Swimming Pools. No above ground swimming pools shall be permitted except upon prior approval of the Board. All pool or pool service equipment shall be located in (a) a side yard between the front and rear boundaries of the home, or (b) in the rear yard but adjacent to the house.

ARTICLE X

MAINTENANCE

Section 10.01. Duty of Maintenance. Except for the Areas of Common Responsibility for which the Association will be responsible for maintenance as determined by the Association, the Owners of each Lot and their tenants shall, at their sole cost and expense, keep and maintain their respective Lots, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Lawn mowing on a regular basis;
- (c) Tree and shrub pruning;
- (d) Watering landscaped areas;
- (e) Keeping lawn and garden areas alive, free of weeds and attractive;
- (f) Complying with all government, health and police requirements;
- (g) Repair of exterior damages to improvements; and
- (h) Painting and repainting of improvements as often as is reasonably necessary to ensure the attractiveness and aesthetic quality of such Lot or improvement as determined by the Board. The approval of the Board otherwise required herein shall not be required for such repainting so long as neither the color scheme nor the arrangement of the colors of any improvements, nor the color of paint thereon is altered.

Section 10.02. Enforcement. If, in the opinion of the Association, any such Owner or tenant has failed in any of the foregoing duties or responsibilities, then the Association may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the care or make arrangements with the Association for making the repairs and maintenance required. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and tenants of any part of the Property on which such work is performed shall jointly and severally be liable for the cost of such work (such costs constituting an individual assessment as specified in Section 7.08 hereof) and shall promptly reimburse the Association for such cost. Each Owner and tenant agrees by the purchase or occupation of the Lot, to pay such statement immediately upon receipt thereof. If such Owner or tenant shall fail to reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, the indebtedness shall be a debt of all of said persons jointly and severally, and shall constitute a lien against that portion of the Property on which said work was performed. Such lien shall have the same attributes as the lien for assessments and special assessments set forth in this Declaration, and the Association shall have identical powers and rights in all respects, including but not limited to the right of foreclosure.

ARTICLE XI

MORTGAGEE PROTECTION

Section 11.01. Priority of Mortgage. Notwithstanding any other provision of this Declaration, it is hereby provided that a breach of any of the conditions contained in this Declaration by any Owner or of any re-entry by reason of such breach, shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value. Any lien which the Association may have on any Lot for the payment of assessments

will be subordinate to the first lien or equivalent security interest of any mortgage on the Lot recorded prior to the date any such assessments became due and prior to the date written notice of such assessments was recorded in the appropriate real property records of Tarrant County, Texas.

Section 11.02. Notices to Eligible Holders. All Eligible Holders holding first mortgages on any Lot or portion thereof, shall be given notice of the following events if they deliver to the Association a written request that they receive such notices, together with a complete and accurate description of the property securing their mortgage and an accurate address for such lender:

(a) any default by any Owner of a Lot subject to a first mortgage held by such Eligible Holder in the performance of an obligation set forth in this Declaration which is not cured within thirty (30) days;

(b) any proposed termination of the Association;

(c) any condemnation loss or casualty loss which affects a material portion of the Property on which there is a first mortgage held by such Eligible Holder;

(d) any delinquency in the payment of assessments or charges on any Lot subject to a first mortgage held by such Eligible Holder, which remains uncured for a period of thirty (30) days; and

(e) a lapse, cancellation or material modification of any insurance or fidelity bond maintained by the Association.

ARTICLE XI

ARCHITECTURAL CONTROL COMMITTEE

Section 12.1. Designation of Committee. The Committee referred to in this Declaration shall be an architectural control committee which shall consist of no fewer than three (3) members who shall be natural persons. The initial members of the Committee shall be:

W. Richard Stromatt  
Four Greenspoint Plaza  
16945 Northchase Drive, Suite 2300  
Houston, Texas 77060-2103

Robert R. Flippin  
Four Greenspoint Plaza  
16945 Northchase Drive, Suite 2300  
Houston, Texas 77060-2103

Joseph D. Urey  
Four Greenspoint Plaza  
16945 Northchase Drive, Suite 2300  
Houston, Texas 77060-2103

Until the Declarant Control Date, as vacancies occur by resignation or otherwise, successor members shall be appointed by Declarant. Thereafter, members of the Committee shall be selected and appointed by the Board of Directors of the Association. In the event that such Directors fail to designate members of the Committee within thirty (30) days after any vacancies appear thereon, then the remaining members of the Committee shall be entitled to appoint a successor to fill any vacancies. Members of the Committee may at any time and without cause, be removed by the Declarant, or following the date referred to above, by the Board of Directors of the Association.

Section 12.2. Construction of Improvements. No Improvement (as that term is hereinafter defined) shall be commenced, erected, constructed, placed, altered, maintained or permitted to remain on any portion of the Property until plans and specifications in such form and detail as the

Committee may deem necessary have been submitted to and approved in writing by the Committee. The decision of the Committee shall be final, conclusive and binding upon the applicant. The Committee shall have the power to employ attorneys to assist it in discharging its duties and shall have the right to charge any applicant an amount necessary to reimburse the Committee for attorneys' fees so incurred.

Section 12.3. Definition of "Improvement". The term "Improvement" shall mean and include all buildings, roofed structures, parking areas, loading areas, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, exterior illumination, grading and site preparation work, concrete or asphalt pads, utility connections, changes in any exterior color or shape, and any new exterior construction or exterior improvement exceeding \$1,000.00 in cost which may not be included in any of the foregoing. The term "Improvement" does not include garden shrub or tree replacements or any other replacement or repair which does not change exterior colors or exterior appearances. The term "Improvement" does include both original improvements and all later changes and improvements.

Section 12.4. Basis of Approval. Approval of plans and specifications shall be based, among other things, on the general adequacy of site dimensions, structural design, conformity and harmony of the exterior design and of location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, compliance with applicable governmental requirements and conformity to both the specific and general intent of the restrictions and covenants set forth herein. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Committee may reject them totally or may approve or disapprove part, conditionally or unconditionally, and reject the balance.

Section 12.5. Failure of the Committee to Act. If the Committee fails to approve or disapprove such plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that the Committee has approved such plans and specifications.

Section 12.6. Rules and Regulations. The Committee may promulgate such rules and regulations as it, in its sole discretion, deems proper to govern the submission of plans and specifications. If the Committee has chosen to promulgate any such rules and regulations, a copy of such rules and regulations shall be made available to Owners upon request. Such rules and regulations may be amended at any time and from time to time as the Committee may see fit, provided, however, that once final approval has been given to any particular plans or specifications, no subsequent change in rules or regulations shall affect such approval.

Section 12.7. Variances. Upon submission of a written request for same, the Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install improvements which are in variance from the architectural standards which are allowed by the Declaration, or which may be promulgated in the future. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community. Written requests for variances shall be deemed to be disapproved if the Committee has not expressly, and in writing, approved such request. No member of the Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant of any variance to an Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce the Declaration and architectural standards provided hereunder, against any other Owner.

Section 12.8. Limitation of Liability. Neither the Declarant, the Committee, nor any employees, officers, directors, members or agents thereof shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.01. Term. Unless earlier terminated in accordance with this instrument, these Covenants and Restrictions shall remain in force and effect for thirty (30) years from the date of this Declaration at which time the same shall be automatically extended for successive periods of ten (10) years unless, by vote, sixty-seven percent (67%) of the then Owners of the Lots and fifty-one percent (51%) of the Eligible Holders agree in writing to change the Covenants and Restrictions in whole or in part.

Section 13.02. Enforcement. If any person shall violate or attempt to violate any of the provisions of this Declaration, the Association, the City of Grapevine, or any Owner, including Declarant, may initiate proceedings at law or in equity against the person or persons violating or attempting to violate any such provision and either to prevent him or them from so doing or to recover damages for such violation. Failure by any party to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys' fees from the non-prevailing party.

Section 13.03. Severability. Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

Section 13.04. Termination of and Responsibility of Declarant. If Declarant should convey all of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

Section 13.05. Owner's Compliance. Each Owner, tenant or occupant of any portion of the Property shall comply with the provisions of this Declaration, and the decisions and resolutions of the Association or its duly authorized representative and failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action to recover sums due, for damages or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting procedures established herein shall be deemed to be binding on all Owners, their successors and assigns.

Section 13.06. Amendments.

(a) The Declarant intends that the Documents may be amended to comply (if not in compliance) with all requirements of the Federal Home Loan Mortgage Corporation ("FHLMC"), Federal National Mortgage Association ("FNMA"), Veterans Administration ("VA") and Federal Housing Administration ("FHA"). Notwithstanding anything to the contrary contained herein, in the event any of the Documents do not comply with FHLMC, FNMA, VA or FHA requirements, the Board and/or the Declarant shall have the power, in its discretion (on behalf of the Association and each and every Owner) to amend the terms of the Documents and/or to enter into any agreement with FHLMC (or its designee), FNMA (or its designee), VA (or its designee) and FHA (or its designee), reasonably required by FHLMC, FNMA, VA or FHA, to allow the Documents to comply with such requirements. Should the FHLMC, FNMA, VA, or FHA subsequently delete any of their respective requirements which necessitate any of the provisions of this Declaration, or make any such requirements less stringent, the Board and/or the Declarant, without approval of the Owners, may cause amendment to this Declaration to be executed and recorded to reflect such changes.

(b) This Declaration may be amended or modified upon the express written consent of at least sixty-seven percent (67%) of the outstanding votes of each class of Members of the Association;

provided, however, that any amendment or change with respect to the following areas shall require the consent of Eligible Holders holding mortgages on Lots to which there is allocated fifty-one percent (51%) of the outstanding votes of the Association, in the aggregate, regardless of class, applicable to Lots that are subject to mortgages, who have made written request for notice of proposed changes to the Declaration: any material provisions establishing, providing for, governing or regulating: voting, assessments, assessment liens or subordination of such liens; insurance or fidelity bonds; expansion or contraction of the Properties, or the annexation, addition, or withdrawal of property to or from the scheme of this Declaration, other than as authorized herein by the Declarant; boundaries of any Lot; leasing of Dwellings or Lots; imposition of any right of first refusal or similar restriction on the right of an Owner to sell transfer or convey his or her Lot; and any provision for the express benefit of Mortgagees; provided, however, that an Eligible Holder shall be deemed to have given its consent to any such amendment if it fails to express its disapproval in writing within thirty (30) days after being notified of the proposed amendment. Any and all amendments, if any, shall be recorded in the office of the County Clerk of Tarrant County, Texas. Notwithstanding the foregoing, Declarant shall have the right to execute and record amendments to this Declaration without the consent or approval of any other party if the sole purpose of the amendment is for the purpose of correcting technical errors or for purposes of clarification. Notwithstanding anything to the contrary contained herein, any amendment to this Declaration which directly or indirectly relates to an Area of Common Responsibility or the Common Properties shall require the written consent of the City of Grapevine.

Section 13.07. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context requires otherwise.

Section 13.08. Notices to Member/Owner. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mails, postage prepaid, addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 13.09. Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or the Bylaws, shall be determined by the Board, whose reasonable determination shall be final and binding upon all Owners.

Section 13.10. Inspection of Documents, Books and Records. The Association shall make available copies of this Declaration, the Bylaws, the Articles of Incorporation, rules and regulations governing the Association as well as books, records and financial statements for inspection by Owners or Eligible Holders, during regular business hours or other reasonable times.

Section 13.11. Condemnation. Upon any condemnation or similar taking of all or any part of the Common Properties by any authority with lawful power to accomplish such condemnation or taking, any award or damages received therefore by the Declarant or the Association shall be placed in a reserve fund of the Association and utilized for capital expenditures for the benefit of the Association as the Board shall direct.

Section 13.12. Disclaimer of Usury. All provisions contained in this Declaration, whether now existing or hereafter arising, are hereby limited so that in no contingency or event whatsoever, shall the interest paid or agreed to be paid by any party to any other party exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable at a rate in excess of that permitted under applicable law, then, the interest so payable shall be reduced to the

maximum amount permitted under applicable law, and if from any circumstance any party ever receives anything of value from any other party deemed interest by applicable law which would exceed interest at the highest lawful rate, an amount equal to any excessive interest shall be applied to the reduction of the principal amount of the debt and if such excessive interest exceeds the unpaid balance of principal, such excess shall be refunded to the party paying same. All interest paid or agreed to be paid by any party or to any party shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the principal so that the rate of interest is uniform throughout the term of such debt. This Section shall control all provisions of this Declaration.

Section 13.13. FHA/VA Approval. If this Declaration has been initially approved by the FHA or the VA in connection with any loan programs made available by FHA or VA and any loans have been made which are insured or guaranteed by FHA or VA, then as long as there is Class B Membership, the following actions will require the prior approval of the FHA or the VA, as applicable, unless the need for approval has been waived by FHA or VA: dedications of Common Properties (except where such dedication is required as of the date hereof to the City of Grapevine); annexation of additional properties to the scheme of this Declaration; merger or consolidation of the Association with any other Association; mortgaging of Common Properties; and amendment of this Declaration.

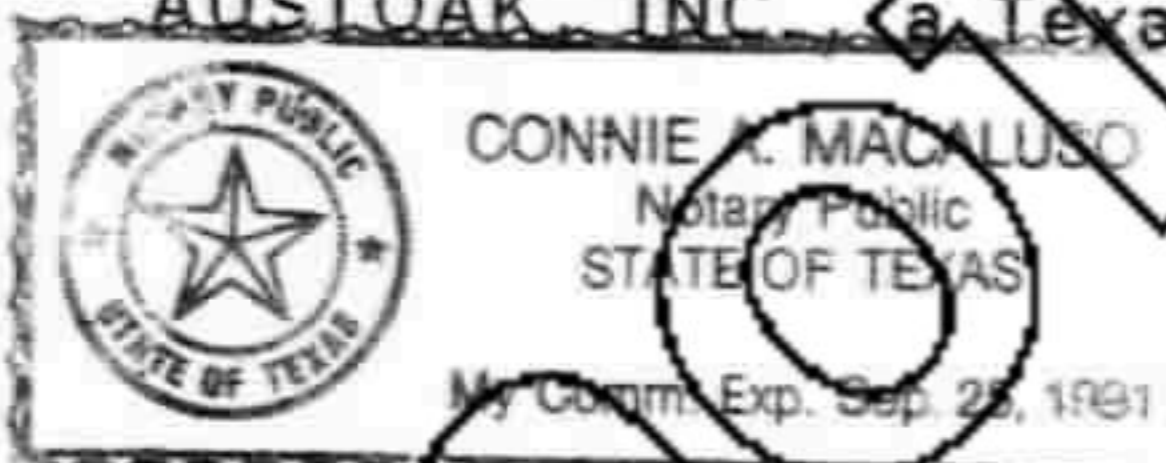
EXECUTED to be effective as of the 12th day of December, 1990.

AUSTOAK, INC.,  
a Texas corporation

By: [Signature]  
Name: ROBERT R. FLIPPIN  
Title: VICE PRES

THE STATE OF TEXAS  
COUNTY OF Harris

This instrument was acknowledged before me on the 12th day of December, 1990, by Robert R. Flippin, Vice President of AUSTOAK, INC., a Texas corporation, on behalf of said corporation.



My Commission Expires:

9-25-91

Connie A. Macaluso  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

Connie A. Macaluso  
(Printed Name of Notary)

THIS DOCUMENT IS UNCLEAR IN THE RETURN ADDRESS.  
THE RETURN ADDRESS WAS OBTAINED FROM:  
(ENVELOPE) (CHECK) (MAIL SLIP) (COVER LETTER)  
(SUBMITTER) (OTHER) \_\_\_\_\_

LIENHOLDER'S SUBORDINATION

The undersigned lienholder joins herein solely for the purpose of subordinating the following described liens held by it of record to the covenants, conditions and restrictions hereby imposed by the Declarant, with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in this Declaration:

That certain Deed of Trust (With Security Agreement and Assignment of Rents and Leases) dated August 9, 1990, executed by AustOak, Inc., a Texas corporation, to First Texas Service Corp., Trustee, recorded in Volume 10011, Page 1702 in the Real Property Records of Tarrant County, Texas, securing the payment of a promissory note, dated of even date therewith and described in said Deed of Trust.

EXECUTED effective as of the 14 day of December, 1990.

LIENHOLDER:

FIRST GIBRALTAR BANK, F.S.B.  
a federal savings bank

By: [Signature]  
Vice President

THE STATE OF TEXAS

COUNTY OF Dallas

§  
§  
§

This instrument was acknowledged before me on the 14 day of December, 1990, by DAVID DWYENS, V.P. of FIRST GIBRALTAR BANK, F.S.B., a federal savings bank, on behalf of said bank.

[Signature]  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

My Commission Expires:

July 29, 1991

CARL ALON CARTER  
(Printed Name of Notary)

Official Copy

10127 0337

EXHIBIT "A"

BEGINNING at a 5/8 inch iron rod found at the Northwest corner of said AUSTOAK tract, said point being the Northwest corner of said Thomas Easter Survey, the Southwest corner of the J.L. Whitman Survey, Abstract No. 1593 and being in the East line of the S. Freeman Survey, Abstract No. 525;

THENCE South 89°18'01" East along the North line of said AUSTOAK tract and the South line of the Rainforest Addition, an addition to the City of Southlake recorded in Volume 388-165, Page 58, Plat Records, Tarrant County, Texas, a distance of 602.95 feet to a 5/8 inch iron rod found for corner, said point being the Southeast corner of said Rainforest Addition and the Southwest corner of a tract of land conveyed to John W. Simons by deed recorded in Volume 3258, Page 679, Deed Records, Tarrant County, Texas;

THENCE South 89°07'15" East continuing along the North line of said AUSTOAK tract, along the South line of said Simons tract, and along the South line of Winding Creek Estates, an addition to the City of Grapevine recorded in Volume 388-191, Page 35, Plat Records, Tarrant County, Texas, a distance of 397.62 feet to a 5/8 inch iron rod found for corner;

THENCE South 85°19'05" East continuing along the North line of said AUSTOAK tract and along the South line of said Winding Creek Estates, a distance of 304.58 feet to a 1/2 inch iron rod found for corner, said point being in the South line of Winding Creek Estates, Section 1, an addition to the City of Grapevine recorded in Volume 388-191, Page 35, Plat Records, Tarrant County, Texas;

THENCE South 01°55'59" West along the East line of said AUSTOAK tract and the West line of The Woodlake Apartments, an addition to the City of Grapevine as recorded in Volume 388-156, Page 44, Plat Records, Tarrant County, Texas, a distance of 235.67 feet to a 1/2 inch iron rod found for corner;

THENCE South 00°24'15" West along the East line of said AUSTOAK tract and the West line of said The Woodlake Apartments, a distance of 246.71 feet to a 1/2 inch iron rod found for corner; point being the Northwest corner of a tract of land conveyed to H. Gary Blankenship, by deed recorded in Volume 9390, page 616, Deed Records, Tarrant County, Texas;

THENCE South 00°19'54" West along the East line of said AUSTOAK tract and the West line of said Blankenship tract a distance 224.84 feet to a 1/2 inch iron rod found for corner, said point being the Southwest corner of said Blankenship tract and the Northwest corner of The Woodlake Apartments Phase II, an addition to the City of Grapevine recorded in Volume 388-180, Page 85, Plat Records, Tarrant County, Texas;

THENCE South 00°25'33" West along the East line of said AUSTOAK tract and the West line of said The Woodlake Apartments Phase II, a distance of 418.78 feet to a 1/2 inch iron rod found for corner said point being in the North-Northerly North line of a tract of land conveyed to Fred H. Branen and Charles L. Branen by deed recorded in Volume 8175, Page 1981, Deed Records, Tarrant County, Texas;

THENCE North 88°49'02" West along a Southerly line of said AUSTOAK tract and the North line of said Branen tract, a distance of 157.20 feet to a 1/2 inch iron rod found for corner;

THENCE South 08°24'30" West along an Easterly line of said AUSTOAK tract and a Westerly line of said Branen tract, a distance of 221.76 feet to a 3/4 inch iron rod found for corner;

THENCE North 89°14'19" West along a Southerly line of said AUSTOAK tract and the Southerly most North line of said Branen tract, 450.78 feet to a 3/4 inch iron rod found for corner; point being the Northwest corner of said Branen tract and the Northeast corner of a tract of land conveyed to 168 Venture No. 3 by deed as recorded in Volume 7859, Page 1476, Deed Records, Tarrant County, Texas;

THENCE North 88°09'24" West in part along a Southerly line of said AUSTOAK tract and the North line of said 168 Venture No. 3 tract, a distance of 674.38 feet to a 1/2 inch iron rod found in the West line of said AUSTOAK tract, point being in the East line of a tract of land conveyed to V.L. Graham by deed recorded in Volume 1705, Page 314, Deed Records, Tarrant County, Texas;

THENCE North 01°08'23" East along the West line of said AUSTOAK tract, along the East line of said V.L. Graham tract, and along the East lines of those tracts of land conveyed to Delbert L. Smith by deeds recorded in Volume 6889, Pages 1582 and 1590, Deed Records, Tarrant County, Texas, a distance of 1101.32 feet to a 1/4 inch iron rod found for corner, said point being the Southeast corner of a tract of land conveyed to Robert L. Harston by deed recorded in Volume 4227, Page 644, Deed Records, Tarrant County, Texas;

THENCE North 00°51'05" East along the West line of said AUSTOAK tract and the East line of said Harston tract, a distance of 251.52 feet to THE POINT OF BEGINNING and containing 39.91 acres of land, more or less.

D190207746  
GEARY STAHL & SPENCER  
901 MAIN ST #6400  
DALLAS, TX 75202

-W A R N I N G-THIS IS PART OF THE OFFICIAL RECORD--DO NOT DESTROY

FILED -- TARRANT COUNTY TEXAS  
SUZANNE HENDERSON -- COUNTY CLERK  
OFFICIAL RECEIPT  
TO: GEARY STAHL & SPENCER

RECEIPT NO  
191059998

REGISTER  
DR02

PRINTED DATE TIME  
12/18/90 14:26

	INSTRUMENT FEED	AMOUNT	FILED	TIME	
1	D190207746 WD	45.00	901218	14:26	CK 39825

T O T A L D O C U M E N T S : 01 F E E S : 45.00

BY: \_\_\_\_\_

ANY PROVISION WHICH RESTRICTS THE SALE RENTAL OR USE  
OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE  
IS INVALID AND UNFORCEABLE UNDER FEDERAL LAW.

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