FF # 135** STC/I550/KFD/301

95-0023785

Cross-Reference to Master Declaration: Instrument 92-0076613

STATE OF TEXAS

COUNTY OF COLLIN

VILLAGE DECLARATION

OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BALLANTRAE

* *

Scrivener's Note to Collin County Clerk and to all Abstracters and Title Examiners:

This instrument specifically refers to, and constitutes a covenant running with, the residential lots within that certain 14.594+/- acre tract situated in Collin County, Texas which has been formally subdivided in accordance with a certain subdivision plat entitled "Village of Ballantrae," filed and recorded in Cabinet I, Drawer 550-551 of the Map and Plat Records of Collin County, Texas, to which reference is hereby made for all purposes.

Additional property may hereafter be subjected to this Village Declaration by filing of an instrument entitled "Supplemental Village Declaration for Ballantrae" describing the property to be subjected hereto, in accordance with the provisions of this Village Declaration.

The name and address of the business entity which owns the land initially made subject to this Village Declaration, which entity is the Declarant herein, is:

Stonebridge Ranch Development Corporation
7605 W. Virginia Parkway
McKinney, Texas 75070
(214) 540-5400

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VILLAGE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BALLANTRAE

BACKGROUND

Declarant is the owner and developer of certain real property more particularly described on Exhibit "A" attached hereto which is a part of that certain master planned community located in Collin County, Texas, and commonly known as Stonebridge Ranch. This Village Declaration is intended to establish a sub-association within Stonebridge Ranch to administer certain responsibilities with respect to the Common Properties, as defined in Section 1.11, and to administer and enforce the provisions of this Declaration and the By-Laws. Declarant desires to impose these covenants, conditions, restrictions, and easements on the real property subjected hereto, yet retain reasonable flexibility to respond to changing or unforeseen circumstances so as to guide, control and maintain the distinction of the Ballantrae.

Declarant hereby declares that all of the property described in Exhibit "A" to this Declaration and any additional property which is hereafter made subject to this Declaration in accordance with Article X shall be held, sold, transferred, used and conveyed subject to the Master Declaration (as defined in Article I hereof) and the following additional easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration and the Master Declaration shall be binding on all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code Ann., Section 81.001, et seq. (Vernon 1984).

Article I
DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. Area of Common Responsibility: The Common Properties, together with those areas, which by the terms of this Declaration,

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any Supplemental Declaration or other applicable covenants or contracts become the responsibility of the Association.

1.2. Articles of Incorporation or Articles: The Articles of Incorporation of Ballantrae Homeowners Association, Inc., on file with the Secretary of State for the State of Texas, as they may be amended.

1.3. Association: Ballantrae Homeowners Association, Inc., a Texas non-profit corporation, its successors or assigns, which shall have the power, duty and responsibility for administering and enforcing this Declaration.

1.4. Base Assessment: Assessments levied on all Lots subject to assessment under Section 11.8 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 11.1 and 11.3.

1.5. Board of Directors or Board: The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Texas corporate law.

1.6. Builder: Any Person which purchases one or more Lots for the purpose of constructing improvements for later sale to consumers in the ordinary course of such Person's business.

1.7. By-Laws: The By-Laws of Ballantrae Homeowners Association, Inc., attached as Exhibit "C" and incorporated by reference, as they may be amended from time to time.

1.8. Class A: The class of membership in the Association consisting of all Owners other than the Class "B" Member, as more particularly described in Section 4.3(a).

1.9. Class B: The class of membership in the Association consisting of the Declarant, as more particularly described in Section 4.3(b).

1.10. Class "B" Control Period: The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors as provided in Section 3.3 of the By-Laws.

1.11. Common Properties: All real and personal property which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, which may include easements.

1.12. Common Expenses: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserves

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for repairs and replacements, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation and also including, without limitation, real estate taxes on the Common Properties, if any, and insurance premiums. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total Class "A" votes in the Association.

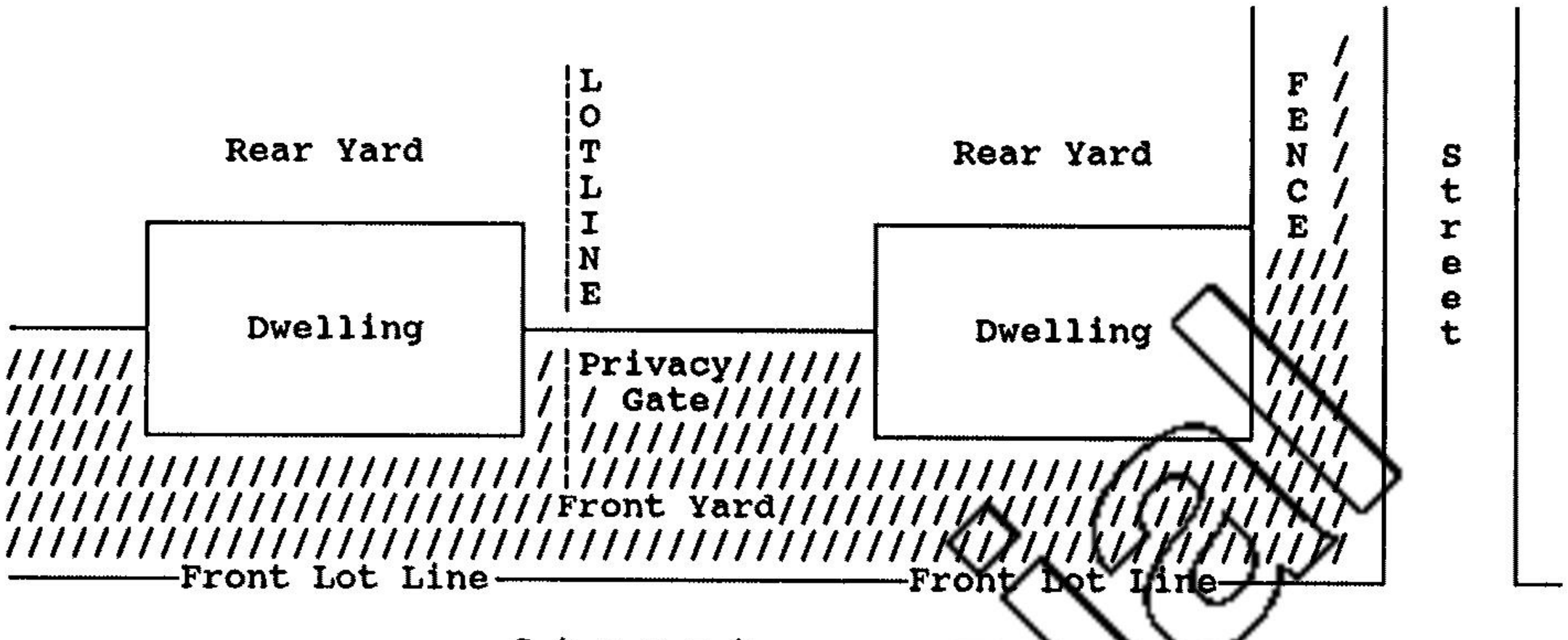
1.13. Community-Wide Standard: The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and its designees, if any, but shall not be lower than the standard established by the Master Association for the Stonebridge Ranch community generally.

1.14. Declarant: Stonebridge Ranch Development Corporation, a Delaware corporation qualified to do business in Texas, or any successor, successor-in-title, or assign who takes title to any portion of the property subject to this Declaration or subject to annexation pursuant to Section 10.2 for the purpose of development and/or sale and who is designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

1.15. "Front Yard(s)": That portion of a Lot lying between (a) the street toward which the dwelling faces and (b) the line formed by dwelling exterior and any fence running generally parallel to such street. In the case of a corner Lot, the term shall also include any portion of the Lot lying between (a) the side street and (b) the line formed by the side of the dwelling and any fence or privacy gate running generally parallel to the street toward which the dwelling faces or the side street. The term shall not include any patios, courtyards or fenced areas.

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ILLUSTRATIONS OF FRONT YARDS

1.16. Lot: Each numbered, platted lot, whether improved or unimproved, shown on any subdivision plat of the Properties, which Lot is intended for development, use, and occupancy as a residence for a single family. The term shall refer to the land which is part of the Lot as well as any improvements thereon. The term shall not include Common Properties of the Association or the Master Association, or any portion of the Properties which may be dedicated to the public.

1.17. Master Association: Stonebridge Ranch Community Association, Inc., a Texas corporation, its successors and assigns, which has the power, duty and responsibility for administering and enforcing the Master Declaration.

1.18. Master Declaration: The Consolidated and Amended Master Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for Stonebridge Ranch, recorded on October 29, 1992, as Instrument Number 92-0076613 in the Public Real Estate Records of Collin County, Texas, as it may be amended and supplemented from time to time.

1.19. Member: A Person subject to membership in the Association as provided in Article IV.

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1.20. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to a Lot.

1.21. "Mortgagee": A beneficiary or holder of a Mortgage.

1.22. "Mortgagor": Any Person who gives a Mortgage.

1.23. "Owner": One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

1.24. "Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.25. "Properties": The real property described in Exhibit "A," together with such additional property as is at any time subjected to this Declaration in accordance with Article X.

1.26. "Special Assessment": Assessments levied in accordance with Section 11.5 of this Declaration.

1.27. "Specific Assessment": Assessments levied in accordance with Section 11.6 of this Declaration.

1.28. "Stonebridge Ranch": that certain real property located in Collin County, Texas, and made subject to the jurisdiction of Stonebridge Ranch Community Association, Inc. by the Stonebridge Ranch Covenants.

1.29. "Stonebridge Ranch Covenants": one or more instruments recorded in the public records of Collin County, Texas, which by their terms subject the real property described therein to the jurisdiction of the Master Association and impose a system of covenants, conditions, restrictions, easements, charges and liens on such property, as such instrument(s) may be amended and supplemented from time to time, and/or any consolidation thereof.

1.30. "Supplemental Declaration": An amendment or supplement to this Declaration filed pursuant to Article X which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the real property described therein.

1.31. "Village Declaration" or "Declaration": This Village Declaration of Covenants, Conditions and Restrictions for Ballantrae, as it may be amended and supplemented from time to time.

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Article II
MASTER ASSOCIATION

This Declaration is intended to supplement the Master Declaration as it applies to the Properties. Every Owner, by acceptance of an interest in any Lot, acknowledges that he or she is subject to the Master Declaration, in addition to this Village Declaration, and that he or she is automatically a member of and subject to assessment by the Master Association, as well as by Ballantrae Homeowners Association, Inc.

In addition to all of the rights and obligations which are conferred or imposed upon the Association pursuant to this Declaration, the By-Laws or the Articles of Incorporation, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Master Declaration and the By-Laws of Stonebridge Ranch Community Association, Inc. The Association and all committees thereof shall also be subject to all superior rights and powers which have been conferred upon the Master Association pursuant to the Master Declaration and the By-Laws of the Master Association. The Association shall take no action in derogation of the rights of, or contrary to the interests of the Master Association.

Article III
PROPERTY RIGHTS

Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Properties, subject to:

(a) This Declaration, the Master Declaration, and any other applicable covenants;

(b) Any restrictions or limitations contained in any deed conveying such property to the Association;

(c) The right of the Board and the membership to adopt rules regulating the use and enjoyment of the Common Properties, pursuant to Article XIII;

(d) The right of the Association to enter into and execute contracts with any party (including, without limitation, the Declarant, its affiliates, or the Master Association) for the purpose of providing management, maintenance or other materials and services to the Association and the Owners consistent with the purposes of the Association and/or this Declaration;

(e) The right of the Association to grant permits, licenses and easements over the Common Properties for utilities, roads, and other purposes deemed appropriate by the Board;

(f) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Properties pursuant to Section 5.8; and

(g) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Notwithstanding the above, an Owner who does not reside in his Unit but permits occupancy of his Unit by others, pursuant to a lease or otherwise, shall be deemed to have delegated his rights to use the recreational facilities to the occupants of his Unit.

ARTICLE IV
ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

4.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility, subject to its right to delegate or assign such responsibility to other entities as provided in this Declaration and the By-Laws.

The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt. The Association shall perform its functions in accordance with the Master Declaration, this Declaration, the By-Laws, the Articles of Incorporation and Texas law.

4.2. Membership. Every Owner shall be a Member of the Association. No Owner, whether one or more Persons, shall have more than one membership per Lot owned. If a Lot is owned by more than one Person, all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. The membership rights and privileges of an Owner who is a natural Person may be exercised by the Member or the Member's spouse. The membership rights of an Owner which is a corporation, partnership or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

4.3. Voting. The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any.

Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 4.2; there shall be only one vote per Lot or if the Owner

owns multiple contiguous Lots with only one residence there shall be only one vote for multiple Lots.

In any situation in which there is more than one Owner of a particular Lot, the vote for such Lot may be exercised by any one of them; provided, it shall be exercised as directed by written notice signed by all such co-Owners and filed with the Secretary of the Association prior to any vote of the membership, if such notice is given. Absent such direction, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Section 3.3 of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 3.18 of the By-Laws.

The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

(i) two years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or

(ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Article V

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1. Common Properties. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Properties and all improvements thereon (including, without limitation, furnishings, equipment, and landscaping), and shall keep them in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard, subject to the right to assign such responsibilities to the Master Association by mutual agreement.

5.2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant may convey to the Association improved or unimproved real estate located within the properties subject to this Declaration or subject to annexation under Section 10.2, personal property, and leasehold and other property interests. Such property shall be

accepted by the Association and thereafter shall be maintained as a Common Expense for the benefit of the Members, subject to any restrictions set forth in the deed.

5.3. Rulemaking. The Association, pursuant to Article XIII, may make and enforce reasonable rules governing the use of the Properties, consistent with this Declaration and the Master Declaration and with the rules and regulations of the Master Association. This requirement of consistency shall not preclude the Association from adopting rules which are more restrictive than the provisions of the Master Declaration or the rules of the Master Association.

5.4. Enforcement. The Association may impose sanctions for violations of this Declaration, the By-Laws, or rules in accordance with procedures set forth in Section 3.23 of the By-Laws, including reasonable monetary fines. In addition, the Association may suspend a Member's right to vote, and may suspend any services provided by the Association to any Owner or such Owner's Lot, during the period of any delinquency in payment of assessments or other charges due to the Association. The Association may also exercise self-help and seek relief in any court for violations or to abate nuisances.

The Master Association shall be entitled to enforce the provisions of this Declaration to the same extent as the Association or any Owner. The failure of the Master Association to enforce any of the limitations, restrictions, conditions or covenants contained herein shall not constitute a waiver of the right to enforce the same thereafter. No liability shall be imposed on, or incurred by, the Master Association as a result of such failure. The prevailing party in any action at law or in equity instituted by the Master Association or the Association to enforce or interpret said limitations, restrictions, conditions or covenants, shall be entitled to all costs incurred in connection therewith, including without limitation, reasonable attorneys' fees.

The City of McKinney shall be entitled to enforce the maintenance provisions of this Declaration in the event that the Association, its successors or assigns, or the Master Association shall fail or refuse to, in accordance with procedures set forth in Section 17.12 of this Declaration.

The Association, by contract or other agreement, may enforce county and city ordinances, if applicable, and permit Collin County and the City of McKinney, Texas, to enforce ordinances on the Properties for the benefit of the Association and its Members.

5.5. Implied Rights; Board Authority. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or

reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

5.6. Governmental Interests. For so long as the Declarant owns any property subject to this Declaration or subject to annexation under Section 10.2, the Declarant may designate sites within the Properties for fire, police, water, drainage, and utility facilities, parks, and other public facilities. The sites may include Common Properties, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents thereto.

5.7. Indemnification. The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

5.8. Dedication of Common Properties. The Association may dedicate portions of the Common Properties to Collin County, the City of McKinney, Texas, or to any other local, state, or federal governmental entity; provided, the City of McKinney shall have no obligation to accept any private streets for public access and maintenance and may impose such conditions upon acceptance as it deems appropriate.

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5.9. Disclaimer Regarding Security. The Association and the Master Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Master Association, the Declarant under the Master Declaration ("Master Declarant"), the Declarant hereunder, nor any successor declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any gate limiting vehicular access to the Properties or any fire protection system, burglar alarm system or other security system can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants, invitees and licensees that the Association, the Master Association, their respective Boards of Directors and committees, the Master Declarant, and the Declarant hereunder are not insurers and that each Person using the Properties assumes all risks for loss or damage to Persons, to Lots and to the contents of Lots resulting from acts of third parties.

The gatehouse, if any, located at the entrance to the Properties is intended as a convenience for the Declarant during initial construction within the Properties and is not designed or intended to enhance the security within or safety of persons residing within the Properties or their guests. The Declarant may, but shall not be obligated to, use such gatehouse during initial construction within the Properties for whatever purposes Declarant sees fit and may, but shall not be obligated to, employ or retain, at Declarant's sole cost and expense, a person or persons to occupy such gatehouse and perform such functions on behalf of Declarant as Declarant, in its sole discretion, deems appropriate, including but not limited to monitoring traffic and facilitating access by authorized persons to Lots which are under construction. Any such person employed or retained by the Declarant shall under no circumstances be responsible for providing security to any persons or property within the Properties. Upon termination of the Declarant's right to use the gatehouse, the Association may, but shall have no obligation to, staff or otherwise use the gatehouse for such purposes as the Board deems appropriate; however, at no time shall the Declarant have any obligation to staff or otherwise continue any prior use of the gatehouse.

5.10. Private Streets.

(a) Any streets which are conveyed to the Association shall be maintained by the Association as part of the Common Properties as set forth in Section 6.1, and the City of McKinney shall have no responsibility for maintenance of such streets. The City of

McKinney may, but shall not be obligated to, inspect such streets and require the Association to make any repairs necessary to bring such streets up to the standards of public streets within the City of McKinney. If the Association should fail to make any repairs within a reasonable time after receipt of written notice from the City of McKinney as to the need for such repairs, or if the Association and the City of McKinney otherwise agree, the City of McKinney shall have the right (i) to cause such repairs to be made and to assess each Lot within the Properties for an equal share of the cost of such repairs; or (ii) to revoke the special use permit for private streets, make any necessary repairs, remove any gate, gatehouse or other structures not permitted on public streets within the City, and unilaterally refile the subdivision plat(s) for the Properties dedicating the streets within the Properties to the public; or (iii) both of the above in the event the balance of the reserve fund is not sufficient to cover all street repairs. If the private streets are converted to public streets, under (ii) above the City shall be entitled to that portion of the Association's reserve funds allocated to maintenance of the streets so dedicated, as provided in Section 11.4.

(b) Each Owner, by acceptance of any interest in a Lot, acknowledges and agrees that the City of McKinney shall have no obligation to provide certain services, such as but not limited to routine police patrols, enforcement of traffic and parking ordinances, or preparation of accident reports, in areas served by private streets.

(c) This Section shall not be amended without the prior written consent of the City of McKinney.

Article VI
MAINTENANCE

6.1. Association's Responsibility. The Association shall maintain the Area of Common Responsibility and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof. The Area of Common Responsibility shall include, but need not be limited to:

(a) all landscaping and other flora, open space, structures, and improvements, including, without limitation, walls, fences, private streets, sidewalks, medians, streetlights, signage, and entrance gates, entrance signage, gatehouse and other entrance features, if any, situated upon the Common Properties;

(b) landscaping and other flora within any right-of-way within the Properties, unless responsibility therefor has been assigned to or assumed by the Master Association pursuant to the Master Declaration;

(c) landscaping within the Front Yards of all Lots, except that the Association's responsibility shall be limited to the mowing and fertilizing of lawns, application of herbicides and pesticides, pruning and trimming of trees and shrubs, weeding of shrub and flower beds, and edging along shrub and flower beds, driveways and sidewalks. Except as specifically set forth herein, the Association shall have no responsibility for maintenance of landscaping installed by the Owner or occupant of a Lot, irrigation of lawns or other landscaping on Lots, or eradication of mosquitos or other pests, nor shall the Association be responsible for replacement of landscaping materials, plants or trees which are damaged or destroyed due to pests, disease, severe weather conditions or other causes except to the extent that the Board expressly agrees to assume responsibility for such maintenance or replacement, respectively;

(d) routine maintenance and winterizing (to the extent that the Board deems winterizing necessary) of the irrigation and sprinkler system(s), if any, serving the Common Properties (the Association shall have no responsibility for maintenance and winterizing of, repairs to or replacement of the irrigation system lying within the boundaries of any Lot except to the extent expressly assumed by the Board); and

(e) such portions of any additional property as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and.

The Area of Common Responsibility described above shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant, so long as Declarant owns any property subject to this Declaration or subject to annexation under Section 10.2.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement (to the extent such is the responsibility of the Association) of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

In the event that the Association fails to perform its responsibilities hereunder or under the Master Declaration, or

otherwise agrees with the Master Association, the Master Association shall be authorized to assume such maintenance responsibilities and to assess all costs thereof against the Owners and their Lots in equal shares, such assessments constituting a lien against each Lot which may be collected in the same manner as the lien for any assessment under the Master Declaration.

In the event that the Association or the Master Association fail to perform its responsibilities hereunder or under the Master Declaration, the City shall be authorized to assume such maintenance responsibilities and to assess all costs thereof against the Owners and their Lots in equal shares, such assessments constituting a lien against each Lot which may be collected in the same manner as the lien for any assessment under the Master Declaration and this Declaration.

6.2. Owner's Responsibility. Each Owner shall be responsible for maintaining his or her Lot and all structures, driveways, sidewalks, parking areas and other improvements comprising the Lot, except to the extent that such maintenance responsibility is assigned to or otherwise assumed by the Association or the Master Association as provided in Section 6.1. Each Owner shall be responsible for irrigating and re-seeding or sodding of lawn areas as needed; replacing landscaping materials; replacing flower beds; and maintenance, winterizing, repairing and replacing, as necessary, the irrigation and sprinkler system serving the Lot and any damage to landscaping resulting from such repairs or replacements.

In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibilities, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 11.6. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

6.3. Standard of Performance. Except as otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The private streets shall be maintained to the standards of similarly situated public streets within the City of McKinney. Neither the Association nor an Owner shall be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Article VII
INSURANCE AND CASUALTY LOSSES

7.1. Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect if reasonably available the following types of insurance:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Properties, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(b) Commercial general liability policy on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability policy shall have a limit of at least $1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage;

(c) Workers compensation insurance and employers liability insurance if and to the extent required by law;

(d) Directors and officers liability coverage;

(e) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(f) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance, boiler and machinery insurance, and building ordinance coverage.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment.

7.2. Policy Requirements. The Association may arrange for an annual review of the sufficiency of insurance coverage by one or

more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the metropolitan Dallas area.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.2. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.23 of the By-Laws, that the loss is the result of the negligence or willful conduct of one or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Lots pursuant to Section 11.6.

All insurance coverage obtained by the Board shall:

(a) be written with a company authorized to do business in the State of Texas which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Properties shall be for the benefit of the Association and its Members;

(c) not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees;

(d) contain an inflation guard endorsement; and

(e) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, the Board shall be required to use reasonable efforts to secure insurance policies which provide:

(a) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(b) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(c) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(d) an endorsement excluding individual Owners' policies from consideration under any "other insurance" clause;

(e) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(f) a cross liability provision; and

(g) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

7.3. Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Properties shall be repaired or reconstructed unless the Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Properties shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Properties shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is

a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments against the Lot Owners to cover the shortfall.

Article VIII
NO PARTITION

Except as permitted in this Declaration, there shall be no judicial partition of the Common Properties. No Person shall seek any judicial partition unless the Properties or such portion thereof have been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

Article IX
CONDEMNATION

If any part of the Common Properties shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least 67% of the total Class "A" votes in the Association and of the Declarant, as long as the Declarant owns any property subject to this Declaration or subject to annexation under Section 10.2) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Properties on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Properties to the extent available, unless within 60 days after such taking the Declarant, so long as the Declarant owns any property subject to this Declaration or subject to annexation under Section 10.2, and Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3 regarding sufficiency of funds for the repair of damage or destruction, shall apply to such costs.

If the taking does not involve any improvements on the Common Properties, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is

complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article X
ANNEXATION AND WITHDRAWAL OF PROPERTY

10.1. Property Subject to Master Declaration. Notwithstanding the annexation rights set forth in this Article X, no property shall hereafter be made subject to this Declaration unless at the time it is made subject hereto it is subject to the Master Declaration.

10.2. Annexation Without Approval of Membership. Until December 31, 2014, Declarant may unilaterally subject to the provisions of this Declaration all or any portion of the real property lying within a one-half mile radius of the perimeter boundaries of the property described on Exhibit "A." Declarant may assign this right to annex property, provided that such assignment is memorialized in a written, recorded instrument executed by Declarant. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property subject to annexation in any manner whatsoever.

Such annexation shall be accomplished by filing a Supplemental Declaration annexing such property in the Public Real Estate Records of Collin County, Texas. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

10.3. Annexation With Approval of Membership. The Association may annex real property to the provisions of this Declaration with the consent of the owner(s) of such property, the affirmative vote of Members representing at least 67% of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 10.2.

Annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Real Estate Records of Collin County, Texas. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon filing unless otherwise provided therein.

10.4. Withdrawal of Property. So long as it has a right to annex additional property pursuant to Section 10.2, the

Declarant reserves the right to amend this Declaration for the purpose of removing property from the coverage of this Declaration, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Properties, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties. Such withdrawal shall not require the consent of any Person except the owner of the property to be withdrawn, if other than Declarant.

10.5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property subject to this Declaration or subject to annexation under Section 10.2.

Article XI
ASSESSMENTS

11.1. Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. There shall be three types of assessments: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; (b) Special Assessments as described in Section 11.5; and (c) Specific Assessments as described in Section 11.6. **Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments to the Association, in addition to such assessments as may be levied by the Master Association pursuant to the Master Declaration.**

All assessments, together with interest (at a rate not to exceed the highest rate allowed by Texas law) as computed from the date the delinquency first occurs, reasonable late charges, costs, and reasonable attorney's fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid, as more particularly provided in Section 11.7. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association or its designee shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance

payment of a reasonable processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as the Board may establish. If the Board so elects, assessments may be paid in two or more installments, and in such case, may include a time-price differential charge, in the Board's discretion. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year and shall be considered delinquent if not paid within the time specified by the Board. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. The Association shall have the right to reject partial payments of an unpaid assessment or other monetary obligation and demand the full payment thereof. The Board may further prescribe: (a) procedures for collecting Base Assessments or installments thereof in advance from new Owners out of "closing transactions"; and (b) different procedures for collecting assessments from Owners who have had a history of being untimely in the payment of assessments.

No Owner may exempt himself from liability for assessments by non-use of the Common Properties, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

All agreements between any Owner and the Association and/or Declarant are expressly limited so that the amount of interest charged, collected, or received on account of such agreement shall never exceed the maximum amount permitted by applicable law. If under any circumstances, fulfillment of any provision of this Declaration or of any other document requires exceeding the lawful maximum interest rates, then, ipso facto, the obligation shall be reduced to comply with such lawful limits. If an amount received by the Association and/or Declarant should be deemed to be excessive interest, then the amount of such excess shall be applied to reduce the unpaid principal and not to the payment of interest. If such excessive interest exceeds the unpaid balance due to the Association and/or Declarant, then such excess shall be refunded to Owner.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other Persons for payment of Common Expenses.

11.2. Declarant's Obligation for Assessments. During the Class "B" Control Period, Declarant may annually elect either to pay Base Assessments on its unsold Lots in the same manner as any other Owner, or to pay the difference between the amount of assessments levied on all other Lots subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Such obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

11.3. Computation of Base Assessment.

(a) At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses for the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared, if required by Section 11.4.

Base Assessments shall be levied equally on all Lots subject to assessment under Section 11.8, except that in the Board's discretion, Lots for which a certificate of occupancy has been issued ("improved Lots") may be assessed at a higher rate than Lots without a completed dwelling ("unimproved Lots") to reflect the cost of any services provided by the Association only to improved Lots. The Board may fix the annual Base Assessment for each Lot without a vote of the membership, provided the Base Assessment does not exceed the limitation on assessments set forth in subsection (b) below; otherwise, the Base Assessment shall be subject to the approval of Members holding at least 67% of the Class "A" votes represented in person or by proxy at a meeting duly called for that purpose and the consent of the Class "B" Member, if any.

In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board may take into account the number of Lots subject to assessment under Section 11.8 on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Section 10.2, the Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 11.2). Any such subsidy shall be conspicuously disclosed as a line item in the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner at least 30 days prior to the beginning of the fiscal year for which it is to be effective. If the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

(b) Limitation on Base Assessments. Although the Board may elect to levy assessments in a lesser amount, the annual Base Assessment for the Association's 1995 fiscal year shall not exceed the equivalent of $100.00 per month per Lot. The maximum Base Assessment which may be levied in any subsequent fiscal year without approval of the Members as set forth in subsection (a) above shall be determined by increasing the maximum Base Assessment which could have been levied for the previous fiscal year by the greater of ten percent (10%) or the percentage increase in the Consumer Price Index for All Urban Consumers (Dallas-Fort Worth Area; Base: 1982-1984 = 100) published by the Bureau of Labor Statistics of the U.S. Department of Labor ("CPI"). In the event the compilation and/or publication of the CPI shall be substantially revised, transferred to any other governmental department or bureau or agency or shall be discontinued, then the index (or a substitute procedure which reasonably reflects and monitors fluctuations in consumer prices) most nearly the same as the CPI shall be used to make the calculations envisioned herein, or in the event no such alternative index exists or a dispute arises concerning the selection of such alternative index, the Board shall have the final right and power to select and/or formulate such an alternate index.

11.4. Reserve Budget and Capital Contribution. The Board shall annually prepare a reserve budget for maintenance of private streets and other improvements to the Common Properties which takes into account the number and nature of any replaceable assets which the Association owns or for which it is otherwise responsible, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments over the budget period. The reserve fund shall not be co-mingled with other funds of the Association. The Association shall cause an annual review to be performed by a certified public accounting firm to verify the amount in the reserve fund and shall provide a copy of the review to the City of McKinney. If at any time the private streets are dedicated to the City of McKinney or converted to public streets, the City shall be entitled to that portion of the monies in the reserve fund allocated to maintenance, repair and replacement of the streets so dedicated. The reserve budgets will be based upon the initial construction value of the private streets. Notwithstanding the foregoing, the reserve fund shall have a

balance commencing upon the sale of a Lot to a third party (residence) but no later than one year after the recordation hereof, and thereafter, at all times. The reserve fund shall be equal to the total replacement cost of the private streets and other improvements divided by the average life expectancy of those improvements times the age of the improvements.

11.5. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Except as otherwise specifically provided in this Declaration, any Special Assessment which, when added to the Base Assessment, would require payments during any fiscal year to exceed the limitation on Base Assessments set forth in Section 11.3(b), shall require the affirmative vote or written consent of Class "A" Members representing at least 51% of the total Class "A" votes, and the written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and if so determined by the Board, may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

11.6. Specific Assessments. The Board shall have the power to levy a Specific Assessment against any Lot or Lots for monetary fines authorized by this Declaration or the By-Laws, and for expenses of the Association incurred in providing benefits, items, or services not provided to all Lots within the Properties, whether such expenses are incurred (a) upon request of the Owner of a Lot for specific items or services relating to the Lot, or (b) as a consequence of the conduct of less than all Owners, their tenants, invitees, or guests. The Association may also levy a Specific Assessment against any Lot to reimburse the Association for costs incurred in bringing the Lot into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules, provided the Board gives prior notice to the Lot Owner and an opportunity for a hearing in accordance with Section 3.23 of the By-Laws.

11.7. Lien for Assessments; Remedies for Nonpayment.

(a) The Declarant does hereby establish, reserve, create and subject each Lot to a perfected contractual lien in favor of the Association and City, as such lien rights inure to said City under 17.12 hereof, to secure payment of delinquent assessments owed on account of such Lot, as well as interest (subject to the limitations of Texas law), late charges and costs of collection (including, without limitation, attorneys fees). Such lien shall be prior and superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior thereto, (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value; and (c) the lien

for assessments or other charges of the Master Association. Declarant hereby assigns such lien to the Association without recourse. The lien shall be self operative, and shall continue in inchoate form without being reserved or referenced in any deed or other document and without any other action required. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure in accordance with Texas law.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 11.8, including such acquirer, its successors and assigns.

(b) The Association may give written notification to the holder(s) of any Mortgage on the Lot of any non-paying Owner of such Owner's default in paying any assessment, charge or fine, but the Association shall not be obligated to provide such notification unless the Association has been furnished in writing with the correct name and address of the Mortgagee and a written request to receive such notification.

(c) The Association may, at its discretion but subject to all applicable debt collection statutes: (i) prepare and file a lien affidavit in the public records of Collin County, Texas which specifically identifies the unpaid assessments, charges or fines; and (ii) publish and post, within one or more locations within the Properties, a list of those Persons or entities who are delinquent and, if applicable, their suspended use and enjoyment of the Common Properties until and unless the delinquency has been cured to the reasonable satisfaction of the Association. Each Owner consents to these procedures and authorizes the Board to undertake such measures for the general benefit of the Association.

Unofficial

11.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the first day of the month following: (a) the month in which the Lot is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

11.9. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

Article XII
ARCHITECTURAL STANDARDS

12.1. General. No structure shall be placed, erected, or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work), exterior alteration of existing improvements, or planting or removal of landscaping materials, shall take place except in compliance with the architectural review procedures and restrictions set forth in the Master Declaration and the Subdivision Design Guidelines applicable to the Properties.

12.2. Guidelines and Procedures.

The Declarant may adopt and amend design standards and guidelines ("Subdivision Design Guidelines") governing construction and modifications to Lots. Such standards and guidelines shall be consistent with the rules and guidelines promulgated by the Master Architectural Review Committee (MARC) established pursuant to the Master Declaration. Notwithstanding the above, the Subdivision Design Guidelines may be stricter than the master design guidelines established pursuant to the Master Declaration. Any amendments to the Subdivision Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The Board or MARC shall make the Subdivision Design Guidelines available to Owners who seek to engage in any construction on or modifications to their Lots and all Persons shall conduct their activities in accordance with such Subdivision Design Guidelines.

The MARC may also promulgate, as part of the Subdivision Design Guidelines, detailed procedures and standards governing the architectural review process.

12.3. No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

12.4. Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Subdivision Design Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

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

Article XIII
USE RESTRICTIONS AND RULES

13.1. Plan of Development; Applicability; Effect.

(a) Declarant has established a general plan of development for the Properties as a Village under the Master Declaration in order to protect the Owners' collective interests, and the aesthetics and environment within the Properties. In furtherance of that general plan, the Master Declaration, this Declaration, and the guidelines, rules and restrictions promulgated pursuant to the Master Declaration and this Declaration, establish affirmative and

negative covenants, easements, and restrictions on the Properties, subject to certain rights vested in the Board and the Members to enable them to respond to changes in circumstances, conditions, needs, and desires within the community.

(b) All provisions of the Master Declaration, this Declaration and any Association rules shall apply to all Owners, occupants, tenants, guests and invitees of any Lot. Any lease on any Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of the Master Declaration, this Declaration, the By-Laws, and the rules of the Association and the Master Association.

13.2. Authority to Promulgate Use Restrictions and Rules. Initial use restrictions applicable to the Properties are attached as Exhibit "B" to this Declaration. Subject to the terms of this Article, such initial use restrictions may be modified in whole or in part, repealed or expanded as follows:

(a) In accordance with its duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board, with the consent of the Declarant as long as the Declarant owns property subject to this Declaration or subject to annexation under Section 10.2, may adopt rules which modify, cancel, limit, create exceptions to, or expand the initial use restrictions set forth on Exhibit "B."

(b) In addition, the Members, at a meeting duly called for such purpose as provided in By-Laws Section 2.4, may adopt rules which modify, cancel, limit, create exceptions to, or expand the use restrictions and rules previously adopted by a vote of 2/3 of the total Class "A" votes and the approval of the Class "B" Member, if any.

(c) At least 30 days prior to the effective date of any such action under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to each Owner. The Association shall provide, without cost, a copy of the use restrictions and rules then in effect (hereafter "Use Restrictions and Rules") to any requesting Member or Mortgagee.

13.3. Owners' Acknowledgment. All Owners and occupants of Lots are given notice that use of their Lots is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected by this provision and that the Use Restrictions and Rules may change from time to time.

13.4. Rights of Owners. Except as may be specifically set forth in the Master Declaration (either initially or by amendment)

or in Exhibit "B" attached hereto, neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Lots of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

(c) Household Composition. No rule shall interfere with the freedom of occupants of Lots to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted on each Lot on the basis of the size and facilities of the Lot and its fair use of the Common Properties.

(d) Activities Within Dwelling. No rule shall interfere with the activities carried on within the confines of dwellings on the Lots, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions visible outside the Lot, that block the views from other Lots, or that create an unreasonable source of annoyance.

(e) Pets. The Association may adopt reasonable rules designed to minimize damage and disturbance to other Owners and occupants, including rules requiring damage deposits, waste removal, leash controls, noise controls, occupancy limits based on size and facilities of the Lot and fair share use of the Common Properties. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance.

(f) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Lots or rights to use the Common Properties to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Properties available, from adopting generally applicable rules for use of Common Properties,

or from denying use privileges to those who abuse the Common Properties, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article XI.

(g) Alienation. No rule shall prohibit leasing or transfer of any Lot, or require consent of the Association or Board for leasing or transfer of any Lot; provided, the Association or the Board may require a minimum lease term of up to six months. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Lot greater than an amount reasonably based on the costs to the Association of its costs to administer that lease or transfer.

(h) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede the Declarant's right to develop in accordance with the recorded development plats for the Properties or otherwise.

(i) Abridging Existing Rights. If any rule would otherwise require Owners or occupants of Lots to dispose of personal property which they owned at the time they acquired their interest in the Lot and such ownership was in compliance with all rules in force at that time, such rule shall not apply to any such Owners without their written consent.

The limitations in this Section 13.4 shall apply to rules only; they shall not apply to amendments to this Declaration adopted in accordance with Section 17.4.

Article XIV
EASEMENTS

14.1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Properties and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one foot, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, the Association, or the Master Association.

14.2. Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any property subject to this Declaration or subject to annexation under Section 10.2, the Association, the Master Association, the City of McKinney

Sanitary District and gas, electric, telephone and other utility companies, access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining any cable television systems, security and similar systems, roads, walkways, bicycle pathways, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plat of the Properties. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Lot, and any damage to a dwelling on a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Declarant specifically grants to the local water supplier, electric company, telephone company and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable. However, the exercise of this easement shall not extend to permitting entry into the dwelling on any Lot without the Owner's consent.

14.3. Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Properties for the purposes of enjoyment, use, access, and development of the property subject to annexation under Section 10.2, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Properties for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Properties as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such Property.

14.4. Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance pursuant to

Article VI of this Declaration, to exercise the right of self-help pursuant to Section 3.23 of the By-Laws, and to inspect for the purpose of ensuring compliance with this Declaration, the By-Laws, and rules, which right may be exercised by any member of the Board, the Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, any damage caused by entry shall be repaired by the Association as a Common Expense. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

14.5. Easement to Master Association. The officers, agents, employees and independent contractors of the Master Association shall have a nonexclusive easement to enter upon the Properties for the purpose of performing or satisfying the duties and obligations of the Master Association as set forth in the Master Declaration, its by-laws and rules and regulations, and to exercise the rights therein granted to the Master Association.

14.6. Easement for Access. The Declarant hereby creates a perpetual, nonexclusive easement for access, ingress and egress over the private streets within the Common Area, for law enforcement, fire fighting, paramedic, rescue and other emergency vehicles, equipment and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; for other government employees in pursuit of their official duties; and for vehicles, equipment and personnel providing utility service or garbage collection service to the Properties; provided, such easement shall not authorize any such Persons to enter the Properties except while acting in their official capacities. The existence of this easement shall not preclude the Association from maintaining gates or other devices or systems designed to limit general vehicular access to the Properties, provided that the Association at all times maintains systems and/or procedures to permit the entry of Persons authorized to exercise the easements granted in this Section without unreasonable interference or delay.

14.7 Side-Yard Use Easements.

(a) Definitions. For purposes of this Section 14.7, capitalized terms not previously defined in Article I shall have the meanings set forth below.

(1) "Zero Side Lot Line" is the side lot line of each Lot closest to which the dwelling on such Lot has been or

is to be constructed, as indicated by an arrow on the subdivision plat of the Properties filed and recorded in Cabinet I, Drawer 550-551 of the Map and Plat Records of Collin County, Texas (the "Plat"). The "Zero Side" of the dwelling on each Lot is the side closest to the Zero Side Lot Line.

(2) "Common Boundary" is the side lot line, as shown on the Plat, forming the common boundary line between any two adjoining Lots.

(3) "Dominant Estate" shall mean, as between two adjoining Lots, the Lot for which the Common Boundary is not the Zero Side Lot Line. (In the illustration in Section 1.15, the Dominant Estate is the Lot on the right.)

(4) "Servient Estate" shall mean, as between two adjoining Lots, the Lot for which the Common Boundary is the Zero Side Lot Line. (In the illustration in Section 1.15, the Servient Estate is the Lot on the left.)

(5) "Easement Area" shall mean that area on the Servient Estate which lies between the Common Boundary and a line formed by extending the plane of the Zero Side of the dwelling on the Servient Estate to its intersection with the front and rear lot lines of the Servient Estate.

(6) "Privacy Gate" shall be a structure comprised of an entry gate, fence and supporting structure running generally perpendicular to the Common Boundary between the dwellings on two adjoining Lots, and separating the Front Yards of such adjoining Lots from the remainder of such Lots, as shown in the illustration in Section 1.15 of the Declaration.

(b) Use of Easement Area. A perpetual non-exclusive easement on, over and across the Easement Area of the adjoining Servient Estate is hereby granted to each Dominant Estate for ingress, egress, use and enjoyment of the Easement Area by the Owner and occupants of the Dominant Estate and their guests, for construction, encroachment, maintenance and use of a Privacy Gate to serve the Dominant Estate, and for installation and maintenance of landscaping within such Easement Area, subject to the restrictions set forth in the Master Declaration and this Declaration and approval of the Master Architectural Review Committee ("MARC") in accordance with the Master Declaration and Article XII of this Declaration.

Nothing shall be done or permitted within any Easement Area which would constitute a threat or hazard to the health and safety of the individuals occupying the Servient Estate dwelling, nor shall anything be done or permitted within the Easement Area which defaces the dwelling on the Servient Estate or which

adversely affects the integrity, structure or strength of the dwelling on the Servient Estate.

The uses permitted within each Easement Area by virtue of this Section shall be nonexclusive because same are subject to any utility, access and drainage easements, as well as any minor encroachments, overhangs and the like attributable to the dwelling on the Servient Estate and pertaining to all or any portion of the Easement Area. In addition, the permitted uses of the Easement Area are subject to any easements granted elsewhere in the Declaration, as it may be amended from time to time.

(c) Rights of Entry. The following rights of entry onto the Easement Area shall exist:

(1) The Owner of each Servient Estate (and the authorized agents, representatives, contractors, etc., of such Owner) shall have a reasonable and temporary right of entry, access, ingress, egress and regress upon the Easement Area and that portion of the Dominant Estate reasonably necessary to perform and complete, in a prompt, efficient and good and workmanlike manner, any construction or other work (whether original, remodeling or repair) which has been theretofore approved by the MARC;

(2) The Owner of each Servient Estate (and the authorized agents, representatives, contractors, etc., of such Owner) shall have a reasonable and temporary right of entry, access, ingress, egress and regress upon the Easement Area and that portion of the Dominant Estate reasonably necessary to perform maintenance and making bona fide repairs to the dwelling and other structures located on the Servient Estate; provided, unless otherwise warranted by then-existing circumstances or otherwise agreed by the Owner of the Dominant Estate, such entry shall occur during daylight hours only and shall be limited to a reasonable number of days in each calendar year.

The MARC is specifically authorized to promulgate ad hoc rules and guidelines pertaining to any particular construction or repair work likely to require the exercise of the right of entry described above so that the respective best interests of the adjoining Owners are, to the extent reasonably possible, harmonized and preserved.

(d) Maintenance of Easement Area; Damage and Destruction.

(1) Notwithstanding anything to the contrary set forth in Section 6.2, the Owner of the Dominant Estate shall be responsible for maintaining the landscaping, the Privacy Gate, and any other improvements within the Easement Area (except overhangs and other portions of the dwelling on the Servient Estate) in a neat and attractive condition in accordance with the Community-Wide Standard.

(2) Notwithstanding anything to the contrary set forth in Section 7.2, the Owner of each Dominant Estate shall have an insurable interest in and shall be responsible for maintaining a property insurance policy on the Privacy Gate and any other insurable improvements located within the Easement Area and benefitting the Dominant Estate (excluding overhangs and other portions of the dwelling on the Servient Estate), and shall be entitled to all insurance proceeds paid under such policy on account of any insured loss. In the event that a Privacy Gate is damaged or destroyed by fire or other casualty, the Owner of the Dominant Estate shall proceed promptly to repair or restore the Privacy Gate in the manner consistent with its original construction, unless otherwise approved pursuant to Article XII.

(e) Arbitration. In the event of any dispute, disagreement or controversy between or among any Owners pertaining to the Easement Area, then upon the written demand of any such Owner, the dispute, disagreement or controversy shall be fully and finally resolved in by arbitration before the Board, and, if necessary, judgment upon their decision may be entered in any court having jurisdiction thereof.

Article XV
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

15.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

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

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or occupant which is not cured within 60 days. Notwithstanding this provision, any holder of a first Mortgage is entitled to written notice upon request from the Association of any

default in the performance by an Owner of any obligation under the Declaration or By-Laws which is not cured within 60 days; or

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

15.2. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Properties.

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

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

Article XVI
DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred or assigned, temporarily or permanently, to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the By-Laws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Real Estate Records of Collin County, Texas.

So long as construction and initial sales of Lots shall continue, the Declarant and any Builder authorized by Declarant may maintain and carry on upon portions of the Properties such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model homes, and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 10 years from the date this

Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article XVII
GENERAL PROVISIONS

17.1. Power of Attorney. Each and every Owner and Member hereby makes, constitutes and appoints Declarant as his/her true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her and in his/her name, place and stead and for his/her use and benefit, to do the following:

(a) To exercise, do or perform any act, right, power, duty or obligation whatsoever in connection with, arising out of, or relating to any matter whatsoever involving this Declaration and the Properties and not specifically reserved to the Owners or Members hereunder; and

(b) To sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the subdivision plat(s) of the Properties, or any part thereof, with any easements and rights-of-way to be therein contained as the Declarant shall deem necessary, proper and expedient under the conditions as may then be existing.

The rights, powers and authority of said attorney-in-fact to exercise any and all of the rights and powers herein granted shall commence and be in full force upon recordation of this Declaration in the Public Real Estate Records of Collin County, Texas, and shall remain in full force and effect thereafter until termination of the Class "B" Control Period.

17.2. Further Development. So long as the Declarant owns any property primarily for development and sale, each and every Owner waives, relinquishes and agrees not to directly or indirectly exercise, any and all rights, powers or abilities (and the Association shall not devote or expend any monies or personnel) to contest, object, challenge, dispute, obstruct, hinder or in any manner disagree with the proposed or actual development (including, without limitation, zoning or rezoning efforts or processes) of any real property owned by the Declarant or by the affiliates, assignees or successors of the Declarant within Stonebridge Ranch.

17.3. Term. Unless earlier terminated by an instrument executed by Owners of at least 75% of the Lots and by the Declarant, if the Declarant then owns any property subject to this Declaration or subject to annexation under Section 10.2, this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 50 years from the date this

Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of 10 years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein; provided, however, the regime created by this Declaration shall not be terminated without the prior written consent of the board of directors of the Master Association and the City of McKinney.

17.4. Amendment. The covenants set forth herein are expressly subject to change, modification and/or deletion by means of amendment at any time and from time to time as provided herein. Notwithstanding Section 17.3, these covenants may be amended and/or changed in part as follows:

(a) By Declarant. Until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender or purchaser of mortgage loans to enable such lender or purchaser to make or purchase mortgage loans on the Lots; (iv) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; or (v) otherwise necessary to satisfy the requirements of any governmental agency. So long as the Declarant still owns property subject to this Declaration or subject to annexation under Section 10.2 for development as part of the Properties, it may also unilaterally amend this Declaration for the purpose of clarification or to correct technical, typographical or scrivener's errors, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Owners. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 51% of the total Class "A" votes in the Association and so long the Declarant has an option to subject additional property to this Declaration pursuant to Section 10.2, the consent of the Declarant.

(c) Validity of Amendments. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. To be effective, any amendment must be recorded in the Public Real Estate Records of Collin County, Texas.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

No amendment to this Declaration which materially affects the rights or interests of the Master Association shall be valid unless approved in writing by the board of directors of the Master Association.

17.5. Cumulative Effect; Conflict. The covenants, restrictions and provisions of this Declaration shall be cumulative with those of the Master Declaration; provided, however, in the event of conflict between or among the provisions of this Declaration, the By-Laws, Articles of Incorporation or rules and regulations pursuant thereto and the Master Declaration, its by-laws, articles of incorporation or rules and regulations, those of Master Association shall be superior to those of the Association. The foregoing priorities shall not prevent enforcement by the Association of provisions or rules which are more stringent than those of the Master Association.

17.6. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications. In the event any portion of these covenants conflicts with mandatory provisions of any ordinance or regulation promulgated by Collin County or the City of McKinney, Texas, then such local governmental requirements shall control.

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

17.8. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 75% of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article XI; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the board of directors of the Master Association and is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

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17.9. Use of the Word "Ballantrae". No Person shall use the word "Ballantrae" or any derivative in any signage or printed or promotional material without the Declarant's prior written consent. However, Owners may use the name "Ballantrae" in printed or promotional matter where such name is used solely to specify that a particular Lot is located within the Properties and the Association shall be entitled to use the word "Ballantrae" in its name.

17.10. Compliance. Every Owner and occupant of any Lot shall comply with this Declaration, the By-Laws, and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Owner(s).

17.11. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least 14 days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

17.12. Right of City of McKinney. **In the event that the Association, its successors or assigns, and the Master Association shall fail or refuse to adequately maintain the appearance and condition of the Common Properties and/or Properties which the Association is obligated to maintain hereunder, the City of McKinney, Texas shall have the right and may assume the duty of performing all such maintenance obligations of the Association at any time, upon giving written notice to the Owners or at any time after the expiration of 10 days after receipt by the Association, its successors or assigns, of written notice specifying in detail the nature and extent of the failure to maintain without such failure being remedied, whichever notice shall be deemed appropriate by the City of McKinney. Upon assuming such maintenance obligations, the City of McKinney may levy an assessment upon each Lot on a pro rata basis for the cost of such maintenance, notwithstanding any other provisions contained in this Declaration, which assessment shall constitute a lien upon the Lot against which each assessment is made. During the period the City of McKinney has a right and assumes the obligation to maintain and care for the Common Properties and/or Properties, the Association shall have no obligation or authority with respect to such maintenance. The right and authority of the City of McKinney to maintain the Common Properties and/or Properties shall cease and terminate when the Association, its successors or assigns, shall present to the City of McKinney reasonable evidence satisfactory to**

the City of its willingness and ability to resume maintenance of the Common Properties and/or Properties. In the event the City of McKinney assumes the duty of performing the maintenance obligations of the Association as provided herein, then the City of McKinney, its agents, representatives and employees shall have right of access to and over the Common Properties and/or Properties for the purpose of maintaining, improving and preserving the same; and in no event, and under no circumstances, shall the City of McKinney be liable to the Association or any Owner or their respective heirs, executors, administrators, devisees, personal representatives, successors and assigns for negligent acts or construction relating in any manner to maintaining, improving and preserving the Common Properties and/or Properties, or to any Owner, the Association or any other Person for failure to perform such maintenance.

17.13. Registration with the Association. Each and every Owner shall have an affirmative duty and obligation to originally provide, and thereafter revise and update, within 15 days after a material change in any of the following has occurred, various items of information to the Association including: (a) the full name and address of such Owner; (b) the full name of each individual who resides on such Owner's Lot; (c) the business address, occupation and telephone numbers of each resident of such Owner's Lot; and (d) such other information as may be reasonably requested from time to time by the Association. In the event any Owner fails, neglects or refuses to so provide, revise and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner shall become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

17.14. Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or the Association By-Laws, shall be determined by the Board of Directors. These determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners.

UNOFFICIAL

IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.

DECLARANT: STONEBRIDGE RANCH DEVELOPMENT CORPORATION, a Delaware corporation qualified to do business in Texas

By: J.H. Darnall

Its: President

Address:

7605 W. Virginia Parkway
McKinney, Texas 75070

THE STATE OF TEXAS &
&
COUNTY OF Collin &

REPRESENTATIVE ACKNOWLEDGMENT

This instrument was acknowledged before me on the 5th day of April, 1995 by J.H. Darnall, the President of Stonebridge Ranch Development Corporation, a Delaware corporation, on behalf of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of April, 1995.

IRIS CHESTER
Notary Public, State of Texas
My Commission Expires 11-07-98

Iris Chester
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

[Print or Type Name of Notary]
My Commission Expires:

Upon recording, please return to:

Stonebridge Ranch Development Corporation
300 E. Carpenter Freeway, Suite 1425
Irving, Texas 75062

Attention: Legal Counsel

Unofficial

EXHIBIT "A"

Land Initially Submitted

ALL THAT TRACT OR PARCEL OF LAND lying and being in the City of McKinney, Texas, containing 14.594 acres out of the G.A. Foote Survey, Abstract No. 311 and the Henry Johnson Survey, Abstract No. 482, as shown on that certain final plat entitled Village of Ballantrae, Section One, prepared by Huitt-Zollars, which plat was recorded on March 31, 1995, in Volume I, Page 550-551, in the Map and Plat Records of Collin County, Texas, as such plat may be amended from time to time.

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EXHIBIT "B"

Initial Use Restrictions and Rules

In addition to the restrictions set forth in Article XII of the Master Declaration, the following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Association pursuant to Article XIII of the Village Declaration:

1. Use of Common Properties. No Person (other than the Declarant) shall use any portion of the Common Properties to:

(a) solicit, promote or conduct business, religious, political or propaganda matters; or

(b) distribute handbills, newsletters, flyers, circulars or other printed materials;

without the prior written consent of the Board.

2. Business Use. No business, trade, garage sale, moving sale, rummage sale, or similar activity shall be carried on in or from any Lot, except that an Owner or occupant residing in the dwelling on the Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; (d) the business activity does not reduce the capacity of the garage on the Lot to accommodate the number of vehicles for which it was originally designed and approved; and (e) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

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

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EXHIBIT "C"

BY-LAWS

OF

BALLANTRAE
HOMEOWNERS ASSOCIATION, INC.

Unofficial

BY-LAWS OF

BALLANTRAE HOMEOWNERS ASSOCIATION, INC.

Article I
Name, Principal Office, and Definitions

1.1. Name. The name of the Association shall be Ballantrae Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2. Principal Office. The principal office of the Association in the State of Texas shall be located in Collin County. The Association may have such other offices, either within or outside the State of Texas, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. Capitalized terms used in these By-Laws shall have the same meaning as set forth in that Village Declaration of Covenants, Conditions, and Restrictions for Ballantrae filed in the Public Real Estate Records of Collin County, Texas (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"). All other words used in these By-Laws shall be given their normal, commonly understood definitions unless the context indicates otherwise.

Article II
Association: Membership, Meetings, Quorum, Voting, Proxies

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the membership shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Properties or as convenient thereto as possible and practical.

2.3. Annual Meetings. The first meeting of the membership, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board so as to occur during the first quarter of the Association's fiscal year on a date and at a time set by the Board of Directors.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or

upon a petition signed by Members representing at least 25% of the total Class "A" votes of the Association.

2.5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage prepaid.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of those persons who are present at such meeting and entitled to vote may adjourn the meeting and reconvene immediately after such adjournment (without necessity for additional notices to Members), provided that no such second meeting shall be held more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that Members representing at least 15% of the total Class "A" votes in the Association remain in attendance, and provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

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2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference.

2.9. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing, signed by the Owner or his duly authorized attorney-in-fact, dated and filed with the Secretary of the Association prior to any meeting for which it is to be effective. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of such Owner's Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of the Member, or of written revocation, or upon the expiration of 11 months from the date of the proxy, unless otherwise provided in the proxy.

2.10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total number.

2.11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of Members representing 15% of the total Class "A" votes in the Association shall constitute a quorum at all meetings of the Association; provided, if a quorum is not present at any meeting when initially called, then the meeting may be adjourned and reconvened immediately after such adjournment, provided that no such second meeting shall be held more than 30 days after the date originally called and the quorum requirement upon such reconvening shall be reduced to 10% of the total Class "A" votes in the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Texas. Such consents shall be filed with the minutes of the Association, and shall have the same force and effect as a unanimous vote of the Members.

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Article III
Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

3.1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or spouses of Members, except that no person and his or her spouse may serve on the Board at the same time. The foregoing limitations shall not apply to directors appointed by the Class "B" Member. In the case of a Member which is not a natural person, any officer, director, partner, employee or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, if there are more Members than positions on the Board, no Member other than the Class "B" member may have more than one such representative on the Board at a time, regardless of the number of Lots owned by such Member.

3.2. Number of Directors. The Board of Directors shall be comprised of three persons. The initial Board shall consist of those persons identified in the Articles of Incorporation.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5 below, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

(a) when 75% of the total number of Lots permitted for the Properties described on Exhibit "A" and "B" of the Declaration have certificates of occupancy issued thereon and have been conveyed to Persons other than a builder;

(b) December 31, 2004; or

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

3.4. Nomination of Directors. Except with respect to directors selected by the Class "B" Member, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than 30 days prior to each annual meeting of the Members to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee

shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of positions to be filled as provided in Section 3.5 below. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

3.5. Election and Term of Office. Notwithstanding any other provision of these By-Laws:

(a) No later than the first annual meeting after the time that Class "A" Members other than Builders own 50% of the Lots permitted by applicable zoning for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call a special meeting at which Class "A" Members shall be entitled to elect one of the three directors. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b) below, whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term.

(b) Within 120 days after termination of the Class "B" Control Period, the President shall call a special meeting at which Class "A" Members shall be entitled to elect two of the three directors. The remaining director shall be appointed by the Class "B" Member. The directors elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting is scheduled to occur within 120 days after termination of the Class "B" Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (c) below.

(c) At the first annual meeting of the membership after the termination of the Class "B" Control Period, the directors shall be selected as follows: All three directors shall be elected by all Members voting without regard to class of membership, with each Member entitled to cast one equal vote per Lot owned. One director shall be elected for a term of one year, one director shall be elected for a term of two years, and one director shall be elected for a term of three years. Upon the expiration of each director's term of office and at each annual meeting thereafter, a successor shall be elected in like manner to serve for a term of three years.

There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected. The directors elected by the Members shall hold office until their respective successors

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have been elected. Directors may be elected to serve any number of consecutive terms.

3.6. Removal of Directors and Vacancies. Any director elected by the Members may be removed, with or without cause, by the vote of a majority of the votes entitled to be cast for election of directors. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members in the same manner provided in Section 3.5 to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members shall elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Class "B" Member.
The Class "B" Member shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or serving as a representative of the Class "B" Member.

B. Meetings.

3.7. Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within 10 days thereafter at such time and place as the Board shall fix.

3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as a majority of the directors shall determine, but at least two such meetings shall be held during each fiscal year with at least one per six-month period. Notice of the time and place of the meeting shall be communicated to directors not less than four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.9. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by any three directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each

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director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) telecommunication, including facsimile or telegram, charges prepaid, with written confirmation of receipt. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four business days before the time set for the meeting. Notices given by personal delivery, telephone, or telecommunication shall be delivered, telephoned, or given to the telegraph company at least 72 hours before the time set for the meeting.

3.10. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the

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Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested director.

3.13. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

3.14. Open Meetings. Subject to the provisions of Section 3.15, all meetings of the Board shall be open to all Members, but a Member other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board of Directors and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.15. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.16. Powers. The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things as are not directed to be done and exercised exclusively by the membership generally by the Declaration, Articles, these By-Laws, or Texas law.

3.17. Duties. The duties of the Board shall include, without limitation:

(a) preparation and adoption, in accordance with the Declaration, of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses;

(b) levying and collecting assessments from the Owners to fund the Common Expenses;

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(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Properties in accordance with the Declaration and these By-Laws;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules and all other books, records, and financial statements of the Association, as provided in Section 6.4; and

(n) permitting utility suppliers to use portions of the Common Properties reasonably necessary to the ongoing development or operation of the Properties.

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3.18. Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the reasonable judgment of the Class "B" Member, actually impairs the rights of the Declarant or builders under the Declaration or these By-Laws, or interferes with development or construction on any portion of the Properties, or which diminishes the level of services being provided by the Association.

The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meetings with Sections 3.8, 3.9, and 3.10 of these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

The Class "B" Member its successors, assigns, representatives, or agents may exercise its right to disapprove hereunder at any time within 10 days following the meeting at which the proposed action is approved. This right to disapprove shall not extend to the requiring of any action on behalf of any committee, or the Board or the Association, except to the extent required to reverse an action disapproved hereunder. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

This Section 3.18 may not be amended without Declarant's specific, written consent so long as the Class "B" Member has any rights hereunder.

3.19. Management. The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board of Directors may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policymaking authority or those duties set forth in Sections 3.17(a), 3.17(b),

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3.17(f), 3.17(g) and 3.17(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than one year's written notice.

3.20. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the calendar quarter in which the first Lot is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

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(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (Any assessment or installment thereof shall be considered to be delinquent on the fifteenth day following the due date unless otherwise specified by resolution of the Board of Directors); and

(g) an annual report which may include the following shall be made available to all Members within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant.

3.21. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Member approval in the same manner provided in Section 11.4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that fiscal year.

3.22. Rights of the Association. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums or cooperatives, both within and outside the Properties, and the specific right to contract with the Master Association for performance of all or any of the Association's responsibilities. Such agreements shall require the consent of a majority of the total number of directors of the Association.

3.23. Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable monetary fines, which shall constitute a lien upon the Lot of the violator, and to suspend an Owner's right to vote for violation of any duty imposed under the Declaration, these By-Laws, or any rules duly adopted by the Association. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Lot violates the Declaration, By-Laws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, it the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration,

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By-Laws, or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Board or its delegate in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall also be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within 10 days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these By-Laws, or the rules of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or, following compliance with the procedures set forth in Article XVII of the Declaration, by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

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Article IV
Officers

4.1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Board of Directors. Such other officers may, but need not be members of the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as set forth in Article III.

4.3. Removal and Vacancies. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board of Directors.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12 hereof.

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Article V Committees

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

Article VI
Miscellaneous

6.1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3. Conflicts. If there are conflicts between the provisions of Texas law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Texas law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6. Amendment.

(a) General. These By-Laws may be amended upon affirmative vote of a majority of the members of the Board of Directors and the written consent of the Class "B" Member, if such exists.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

(b) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation in the Public Real Estate Records of Collin County, Texas, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

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IN WITNESS WHEREOF, the undersigned officers do set their hands and seals certifying that the foregoing By-Laws were duly adopted by the Board of Directors on the _____ day of _____ ___, 1995.

BALLANTRAE HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation

By: _____
President

Attest: _____

THE STATE OF TEXAS &
& REPRESENTATIVE ACKNOWLEDGMENT
COUNTY OF _____ &

This instrument was acknowledged before me on the ____ day of _____, 19__ by _____ _____, the _____ of Ballantrae Homeowners Association, Inc., a Texas corporation, on behalf of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 19__.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

_____
[Print or Type Name of Notary]
My Commission Expires:

_____

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

(THE STATE OF TEXAS) (COUNTY OF COLLIN)

I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me; and was duly RECORDED, on the Official Public Records of Real Property of Collin County, Texas on

APR 7 1995

Helen Starnes

COUNTY CLERK, COLLIN COUNTY, TEXAS

Filed for Record in:
COLLIN COUNTY, TX
HONORABLE HELEN STARNES

On 1995/04/07

At 1:04P

Number: 95- 0023785
Type : RS 135.00

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