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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
WOODFOREST**

After Recording Return To:

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covenants, easements, reservations, and restrictions hereinafter set forth, for the benefit of the Property, additions thereto, and each Owner of any part thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the amenities in said subdivision and enforcement of this Declaration, to create an Association (hereinafter defined) to which shall be delegated and assigned the authority to administer and enforce these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the Assessments (hereinafter defined); and

WHEREAS, there has been or will be incorporated one or more non-profit corporations created under the laws of the State of Texas, including the first being the Woodforest Owners Association, Inc. Declarant is hereby authorized to incorporate one or more entities to provide the functions of the Association. The Directors of which Association either have or will establish certain Bylaws by which the Association shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid and any other duties as set out in the Bylaws and/or other Dedicatory Instruments as that term is defined in the Texas Property Code. No more than one such non-profit corporation shall be in existence at any one time.

NOW, THEREFORE, Declarant and Woodforest Owner hereby declare that the Property shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, all of which are hereby adopted for, and placed upon said Property and shall run with the Property and be binding on all parties, now and at anytime hereinafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, and shall inure to the benefit of each Owner of any part of the Property.

The Property is subject to this Declaration and to the Development Agreement between the City of Conroe, Texas, Woodforest Partners, L.P. and Woodforest Development, Inc. If any conflict exists between all or any portion of the two, the more restrictive provision shall control.

## ARTICLE I. DEFINITION OF TERMS

The following words when used herein shall have the following meanings when capitalized (unless the context requires otherwise and the term is then not capitalized):

- A. "ARC" means the Architectural Review Committee established for the Property as set forth in Article IX, Section A.
- B. "Assessment" means the assessments levied against all Lots or Tracts for the purposes set out in Article XIV or any other charge authorized by this Declaration, the Bylaws, or Rules and Regulations.
- C. "Association" means WOODFOREST OWNERS ASSOCIATION, INC., a Texas non-profit corporation, its successors, assigns, or replacements which has jurisdiction over all properties located within the land encumbered under this Declaration, as same may be amended from time to time as additional property is annexed into the Subdivision (hereinafter defined) as allowed under this Declaration.
- D. "Board" means the Board of Directors of the Association as provided within the Bylaws.
- E. "Builder" means an individual or entity that purchases a single or multiple Lots from the Declarant for the purpose of constructing Dwellings thereon, which Dwellings will be offered for sale to purchasers. "Builder" shall not include an individual or entity constructing additions onto a Dwelling already in existence, performing repairs or maintenance or re-constructing or replacing a Dwelling after demolition or destruction, either partial or complete.
- F. "Bylaws" means the Bylaws of the Woodforest Owners Association, Inc., as they may be amended from time to time.
- G. "Commercial Area" means a commercial area comprised of Tracts, designated by the Declarant which may be comprised of one or more commercial Tracts in which Owners have certain common interests other than those common to all Members.

- H. "Commercial Area Assessment" means an assessment that may be levied under Article XIV against all Tracts in a Commercial Area.
- I. "Common Area" means all real property owned in fee or held in easement, lease, or license by the Association for the common use and/or enjoyment of the Owners and shall include areas designated by Declarant to be conveyed by deed or easement to the Association.
- J. "Community Wide Standard" means the standard of conduct, maintenance, or other activity generally prevailing throughout the Subdivision. Such standards may be defined in the Guidelines or rules and regulations promulgated by the Board. Such standards may be specifically determined, and modified, by the Declarant at any time so long as Class "B" membership exists, and thereafter by the Board and/or the ARC.
- K. "Declarant" means Woodforest Development, Inc. its successors and assigns as same may be evidenced by a written instrument recorded in the real property records of the Montgomery County Clerk's office.
- L. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Woodforest which encumbers the Property, and any other property brought under the control of this document, or any supplemental declaration, annexation agreement and/or amendment thereto.
- M. "Deed Restriction Violation" means a condition on a Lot or Tract that does not comply with the terms and conditions of all governing documents covering the establishment, maintenance, and operation of the Subdivision, including but not limited to this Declaration, Initial Use Restriction Designation and Annexation Agreement, the Bylaws, Certificate of Formation, Guidelines, and policies, rules and regulations promulgated by the Board. Failure to pay all amounts due and owing on a Lot or Tract shall also be considered a Deed Restriction Violation.
- N. "Dwelling" means a main residential structure constructed on a Lot or Homesite intended for residential use.

- O. "Foundation" and/or "Woodforest Foundation" means the Woodforest Community Foundation, Inc., a Texas non-profit corporation, its successors, replacements and assigns which has been, or will be, incorporated for the purpose of providing beneficial services and programs to Woodforest, its residents and the community surrounding Woodforest.
- P. "Foundation Board" means the duly elected or appointed Board of Trustees of Woodforest Foundation.
- Q. "Foundation Fee" means the fee levied pursuant to Article XV.
- R. "Guidelines" means general, architectural, and/or builder guidelines, and application and review procedures, if any, promulgated by the Association, ARC, or Declarant that may set forth various standards relating to exterior harmony of any and all improvements placed upon or constructed on any Lot, Tract, and/or construction types and aesthetics which Guidelines may be amended by the Association, the ARC, or the Declarant for so long as Class B membership exists, without notice to Owners. There shall be no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive.
- S. "Hardscape" shall include but not be limited to such items as rocks, landscape timbers, railroad ties, fountains, statuary, sculpture, terracing materials, lawn swings, and yard art.
- T. "Homesite" means one or more Lots upon which a single family Dwelling may be erected subject to this Declaration.
- U. "Initial Use Restriction Designation" and/or Annexation Agreement and Initial Use Restriction Designation" or "TURD" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant (and the Owner of the property) which subjects additional property to this Declaration and/or imposes expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Declaration or the Association pursuant to Article III, Section B, of this Declaration to subject additional property to this Declaration.

- V. "Lot" means a parcel of Property defined as one lot by the plat and/or any replat thereof recorded in the real property records of Montgomery County, Texas, and encumbered by this Declaration, and restricted to single family use by an IURD. Homesites may be comprised of more than one Lot; each such Lot will be subject to the rights and duties of membership in the Association. There shall be an Assessment due for each Lot owned as defined by the then plat of record. Notwithstanding anything contained herein to the contrary, this definition shall not include any Lot for so long as it is being used by Declarant as a model home Lot and/or a sales information center.
- W. "Member" means an Owner, as defined in this Article, subject to the limitations set forth in Article IV, Section A.
- X. "Member in Good Standing" means a Member who has all Assessments of every type and category paid up to date, has no outstanding financial obligations to the Association that are delinquent and is not noted of record (or within the records) of the Association to have a Deed Restriction Violation on any Lot or Tract owned by such Member. This definition of "Member in Good Standing" may further be expanded by the definition in the Bylaws of the Association, which definitions are incorporated herein by reference.
- Y. "Neighborhood" means a residential area designated by the Declarant so long as Class B Membership exists, and thereafter the Board, and may be comprised of one or more Lots and housing types and possibly a portion of the Common Area and/or Neighborhood Facility.
- Z. "Neighborhood Assessment" means an Assessment that may be levied under Article XIV against all Lots in a Neighborhood to pay to the Association the Neighborhood Expenses and may include an accumulation for reserves for such expenses.
- AA. "Neighborhood Expenses" shall mean the expenses of administration (including professional services), maintenance, operation and replacement of a Neighborhood Facility (if any); the cost of insurance, real estate taxes and other real estate assessments, in any; water, water removal, electricity, telephone, gas or other necessary utility expenses for the Neighborhood Facility, the cost of and the expenses incurred for the

maintenance and repair and replacement of personal property used by the Association in connection with the operation of the Neighborhood Facility or the provision of Neighborhood Services to all Dwellings in the Neighborhood; any expense designated as a Neighborhood Wide Expense by the Declarant and/or the Association; any expenses incurred by the Association which, pursuant to generally accepted accounting principles, can be reasonably allocated to the Neighborhood; and any other expenses lawfully incurred by the Association for the common benefit of the Owners of Lots or Tracts in the Neighborhood. Neighborhood Expenses shall be determined on a Neighborhood by Neighborhood basis and no expenses incurred for any one Neighborhood shall be deemed to be a Neighborhood Expense for any other Neighborhood. In the event that certain expenses are incurred by the Association in connection with the operation of a given Neighborhood Facility and another Neighborhood Facility and/or the Common Area, the allocation of expenses between the Neighborhoods shall be made by the Board based on generally accepted accounting principles, and any allocations so made shall be final and binding. All Neighborhood Expenses are secured by the Assessment lien created herein.

- BB. "Neighborhood Facility" shall mean a portion of the Property which is part of a Neighborhood and which is described and designated as a "Neighborhood Facility" by the Declarant and/or the Association, or on a plat, together with all improvements thereon, rights appurtenant thereto, and all personal property used in connection with the operation thereof. By way of example, and not limitation, a Neighborhood Facility may be a swimming pool, tennis court, or other recreational facility which is available for use primarily or exclusively by Owners of Lots or Tracts within a Neighborhood, an access gate or similar structure which serves a Neighborhood, or other facilities which serve or are used exclusively by Owners of Lots or Tracts in the Neighborhood. A Neighborhood Facility shall not be deemed to be part of the Common Area.
- CC. "Neighborhood Wide Services" shall mean those services which are described and designated as a Neighborhood Wide Service (a) in a Supplemental Amendment or (b) by an action of the Board pursuant to a petition signed by Owners of at least two-thirds of the Lots or Tracts in the Neighborhood. Neighborhood Wide Services shall be furnished to the Lots in a Specific Neighborhood by the Association as a Neighborhood Expense.

- DD. "Owner" means an owner of any portion of the Property. Persons or entities holding title only as a lienholder shall not be an Owner for purposes of this Declaration.
- EE. "Property" means all of the property subject to this Declaration as same may be amended and/or supplemented from time to time as additional property is annexed into the Subdivision as allowed under this Declaration.
- FF. "Recreational Sites" means Common Area property that is set aside for use as recreational facilities, reserves, or green space and is encumbered by this Declaration, a recorded plat, or both.
- GG. "Special Assessment" means an Assessment levied under Article XIV, Section D for a specific purpose.
- HH. "Supplemental Amendment" or "Annexation Agreement" shall mean an amendment or supplement to this Declaration, including but not limited to an IURD, executed by or consented to by Declarant (and the Owner of the property) which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Declarant or the Association pursuant to Article III, Section B, of this Declaration to subject additional property to this Declaration.
- II. "Tract" means a parcel of property encumbered by this Declaration that is not a Lot.
- JJ. "Woodforest" and/or the "Subdivision" means the Woodforest Subdivision, located in Montgomery County, Texas. As of the date of this Declaration, the Subdivision is more particularly described in the plat recorded under Clerk's File No. 2008-087611 in the Map Records of Montgomery County, Texas. The Subdivision may be supplemented as additional land is annexed into the Subdivision by the recording of a IURD, Annexation Agreement, or Supplemental Amendment.

**ARTICLE II. PURPOSE AND INTENT**

The Subdivision, as initially planned, is intended to be a mixed use development that is planned to feature residential and commercial uses.

This Declaration shall serve as the means by which design, maintenance and use of the Property and additional property anticipated to be a part of the Subdivision will be established.

### ARTICLE III. PROPERTY SUBJECT TO RESTRICTIONS

#### A. Property Initially Encumbered

The Property that is initially encumbered by this Declaration and is therefore a part of the Subdivision is more particularly described in the map or plat thereof, filed under Clerk's File No. 2008-087611 of the real property records of Montgomery County, Texas. Owners of Property are Members of the Association and have executed this Declaration.

#### B. Annexation of Additional Property

Without the joinder of any other Owners or Members, the Declarant reserves the exclusive right for twenty-five (25) years following the recording of this Declaration to annex any additional property into the Subdivision. Such annexation shall be accomplished by the execution and filing for record of a Supplemental Amendment or Annexation Agreement setting forth the land being annexed and/or the specific restrictions relating to such property, if different. Any Supplemental Declaration or Annexation Agreement may contain covenants, conditions, restrictions and easements which apply only to the real estate being annexed and/or may create exceptions to, or otherwise modify, the terms of this Declaration as they may apply to the real estate being annexed in order to reflect the different or unique character and/or intended use of such real estate.

The right of the Declarant to annex land under this Section shall pass to the Association upon the expiration of the twenty-five (25) year term granted above.

#### C. De-annexation of Property

For so long as Class "B" Membership exists, the Declarant, without the joinder of any other Owners or Members, may de-annex from the Subdivision any property owned by the Declarant. For so long as Class "B" Membership exists, property not owned by the Declarant may be de-annexed with the prior written consent of the Declarant and the Owner of the property.

#### ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS

##### A. Eligibility

Eligibility to vote or serve as a director or officer, after the expiration of the term of the initial Board, shall be predicated upon a Member being a Member in Good Standing with the Association. No Member shall be allowed to vote or hold office if that Member is not a Member in Good Standing or is noted of record (or within the records) of the Association to have a deed restriction violation on one or more Lots or Tracts in the Subdivision.

##### B. Membership

The sole criteria to become a Member of the Association is to hold title to a Lot or Tract within the Subdivision. This is not to imply that any holder of a mere security interest (such as a mortgagee, or holder of any other lien against property) would be a Member, unless that holder of the security interest foreclosed and thereby became the Owner of the Lot(s) or Tract(s). Membership is appurtenant to and runs with the land. Membership is not severable as an individual right and cannot be separately conveyed to any party or entity. Multiple Owners of any single Lot or Tract must vote in agreement (under any method they devise among themselves), but in no case shall such multiple Owners cast portions of votes. The vote attributable to any single Lot or Tract must be voted in the same manner (i.e. all Owners of the Lot or Tract for, or all Owners of the Lot or Tract against a particular issue) but in no event can there be more than one vote cast per Lot or the votes attributable to a Tract as set out in detail in below.

All duties and obligations set forth in this Declaration are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration shall relieve Members or their successors or assigns of such duties or obligations. Mandatory membership shall begin with the execution of this Declaration and pass with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of Members.

In consideration for payment of Assessments, all Owners of Lots and Tracts in the Subdivision and subsequently annexed sections if any, shall have the right to the use and enjoyment of the Common Area and recreational facilities (if any) in the Subdivision.

##### C. Voting Rights

The Association shall have two classes of membership, Class A and Class B, as follows:

1. Class A Membership

Class A Members shall be all Members with the exception of Class B Members, if any. Each residential Class A Member's voting rights shall be based on the number of Lots owned and shall be determined as follows:

One (1) vote shall be granted to Class A Members for each Lot owned.

Each commercial Class A Member's voting rights shall be based on the number of square feet of the commercial property owned and shall be determined as follows:

One (1) vote shall be granted per eight thousand square feet (8000 s.f.) of Tract of commercial property. In the case of fractional votes, votes shall be rounded down to the nearest whole number. The Owner of any Tract containing less than eight thousand square feet (8000 s.f.) of commercial property shall be entitled to one (1) vote.

2. Class B Membership

Class B Members shall include the Declarant and such Owners as the Declarant may, in its sole discretion, confer Class B Membership status upon. Such conferring of Class B Membership shall be in writing by the Declarant. Each Class B Member's voting rights shall be based on the number of Lots, or the number of square feet of Tracts, owned, and shall be determined as follows:

Ten (10) votes shall be granted to Class B Members for each Lot owned.

Ten (10) votes shall be granted per eight thousand square feet (8000 s.f.) of Tract of commercial property. In the case of fractional votes, votes shall be rounded down to the nearest whole number. Any Tract containing less than eight thousand square feet (8000 s.f.) of commercial property shall be entitled to ten (10) votes.

Declarant shall retain its Class B membership and retain control and authority to appoint all members of the Board of Directors of the Association until the earlier to occur of the following:

1. Declarant no longer owns any portion of the Property; or

2. The Declarant desires to assign all or any portion of its control and authority to the Association as evidenced by an instrument recorded in the Real Property Records of Montgomery County, Texas; or
3. From and after the twenty-fifth (25<sup>th</sup>) anniversary of the date this Declaration is recorded in the Real Property Records of Montgomery County, Texas.

At such time, any remaining Class B Members shall be converted to Class A Members and elections shall be held to elect the members of the Board of Directors of the Association pursuant to the provisions of the Certificate of Formation and the Bylaws of the Association. In the event Class B Membership terminates pursuant to the above provisions, and thereafter additional property is annexed into the jurisdiction of the Association, which results in the Declarant owning property in the Subdivision, Declarant's Class B Membership shall be restored until it again terminates as specified in (a) or (b) above. Notwithstanding anything contained herein to the contrary, the Declarant may assign, temporarily or permanently, all or a portion of its rights as Declarant to any person(s).

D. Voting Procedures

Class A and Class B members shall exercise their votes as set out in the Bylaws.

E. Self Help

"Self Help" shall mean the authority, but not the obligation, of the Association, upon approval of not less than a majority of the Board members, to enter upon a Lot, Homesite, or Tract and cause to be performed any of the Owner's maintenance and repair obligations, or acts required by that Owner to bring his/her Lot, Homesite, or Tract into compliance with this Declaration, if said Owner fails to perform same after written demand from the Board. In exercising its Self Help remedy, the Association shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such exercise of Self Help, nor in any way shall the Association or its agent be liable for any accounting or other claim for such action. Any costs incurred by the Association in the exercise of its Self Help remedy shall be the personal obligation of the person or entity who was the Owner of the Lot or Tract at the time when the Self Help costs were incurred. The personal obligation for such costs shall not pass to successors in title unless expressly assumed by them. The costs incurred by the Association in

exercising its Self Help remedy, which costs may include by way of illustration and not limitation, the actual costs incurred by the Association and an administrative fee set by the Board, shall be charged to the subject Owner's Assessment account and shall be supported by the continuing lien created in Article XIV herein.

#### ARTICLE V. EFFECTIVE DATE OF DECLARATION

This Declaration shall be effective as of the date this document is recorded in the Real Property Records of Montgomery County, Texas.

#### ARTICLE VI. USE RESTRICTIONS

Notwithstanding anything contained herein to the contrary, the provisions of this Article VI, "Use Restrictions" shall apply only to Lots unless Tracts are specifically included in said provisions.

##### A. Residential Uses Permitted

Homesites within the Subdivision shall be used exclusively for single-family residential purposes. The term "Single Family" as used herein shall refer not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which shall be limited to a single family, as defined below. Single Family shall mean the use of, and improvement to, a Lot with no more than one building designed for and containing facilities for living, sleeping, cooking, and eating therein. In no case may a Lot contain more than one Dwelling. No multi-family Dwellings may be constructed on any Lot. No building, outbuilding or portion thereof shall be constructed for income property, such that tenants would occupy less than the entire Lot and/or Homesite.

It is permitted for Owners to lease a residence in the Subdivision, so long as tenants are leasing the entire land and improvements comprising the Homesite. "Leasing" for purposes of this Declaration, is defined as occupancy of a Dwelling by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. No fraction or portion of any Dwelling may be leased or rented. All leases must be in writing and shall contain such terms as the Board may prescribe from time to time. All leases shall provide that they may be terminated in the event of a violation of the

Declaration or the governing documents of Woodforest by a tenant or a tenant's family, guests or invitees, and the Board, in its sole discretion, may require termination by the Owner and eviction of the tenant in such event.

No residence shall be occupied by more than one single family. By way of illustration the following charts each depict an example of an approved single family:

For the purposes of these examples, the Owner(s) are considered the control level which establishes the other approved residents.

EXAMPLE NO. 1

No more than a total of 2 parents of the control level		
<b><i>Control Level:</i></b> Husband & Wife	One Person Not So Related	One Household Employee
Children of Husband and/or Wife		

EXAMPLE NO. 2

No more than a total of 2 parents of the control level	
<b><i>Control Level:</i></b> Roommate One Roommate Two	One Household Employee
Children of either or both Roommates	

It is not the intent of this provision to exclude from a Lot any individual who is authorized to so remain by any state or federal law. If it is found that this definition is in violation of any law, then this provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

**B. Non-Permitted Uses**

1. No trade or business may be conducted in or from any Dwelling or Homesite, except such use within a Dwelling where (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 and other restrictive covenants applicable to the Property; (c) the business activity does not involve visitation to the Dwelling or Homesite by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of the Subdivision; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision, as may be determined in the sole discretion of the Board. The uses set out in this Section 1 (a) through (d) shall be referred to singularly or collectively as an "Incidental Business Use." At no time may an Incidental Business Use cause increased parking or traffic within the Subdivision. Any increased parking or traffic within the Subdivision as a result of an Incidental Business Use shall be deemed to be a Deed Restriction Violation. A day-care facility, home day-care facility, church, nursery, pre-school, beauty parlor, or barber shop or other similar facility is expressly prohibited.

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 that involves the manufacture or provision of goods for or to persons other than the provider's family, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Dwelling shall not be considered a trade or business within the meaning of this Section. This Section does not apply to any activity conducted by the Declarant or by a Builder with approval of the Declarant with respect to its development and sale of the Property. Garage sales, attic sales, estate sales, moving sales, or yard sales (or any similar vending of merchandise) conducted on any Homesite more than once per year shall be considered business activity and therefore prohibited. The Association may, but is not required to, adopt rules and regulations regarding such sales.

No vehicles displaying signs or advertising shall be permitted to be parked within public view in residential sections of the Subdivision, other than service vehicles

contracted by Owners of Homesites to perform specific services. No vehicles with more than two axles shall be permitted to be parked or stored for a period in excess of twelve (12) hours per week in a residential section of the Subdivision, without prior written permission of the Association, whose approval may be issued or withheld at its sole and absolute discretion.

2. No livestock, domestic or wild animals, nor plants or crops shall be raised on any Homesite, any Lot, or the Property for the purpose of breeding or selling same, whether for profit or not. Exchange of such animals, plants or produce for anything of value to the seller shall constitute a sale of the merchandise and therefore prohibited under this provision.

C. Other Uses -- Potential for Multi-Family and Commercial Use Tracts

Property annexed into Woodforest, and subjected to the jurisdiction of the Association and this Declaration, as same may be amended, may be used as set out herein or as additionally restricted in an IURD, Annexation Agreement, or a Supplemental Amendment.

D. Animals and Pets

No animals, livestock (including swine of any kind) or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common household pets, not to exceed a total of two (2) pets, may be permitted in a Dwelling. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. No pets are permitted to roam free. If, in the sole discretion of the Association, any pet endangers the health or safety of any Owner or resident, makes objectionable noise, or constitutes a nuisance or inconvenience to the residents or Owners of other Dwellings or the Owner of any portion of the Property it shall be removed upon request of the Board. No animals or pets shall be kept, bred, or maintained for any commercial purpose. Dogs and cats shall at all times whenever they are outside a Dwelling and/or fence, be confined on a leash which must be held by a responsible person. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Subdivision, or nearby property, or destructive of wildlife, that animal shall be

deemed to be a Deed Restriction Violation. If the owner of a dangerous animal refuses to remove that animal from the Property, in violation of this Declaration, the Association or its agents shall be authorized to request a local governmental agency with appropriate jurisdiction to take over the enforcement of this provision.

E. Antennas

No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property, including any Homesite, which is visible from any street, Common Area or other Lot unless it is impossible to receive signals from said location. In that event the receiving device may be placed in a visible location as approved by the ARC. The ARC may require as much screening as possible while not substantially interfering with reception. No satellite dishes shall be permitted which are larger than one (1) meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. The Declarant by promulgating this Section is not attempting to violate the Telecommunications Act of 1996 ("the 1996 Act"), as same may be amended from time to time. This Section shall be interpreted to be as restrictive as possible while not violating the 1996 Act.

In the event that it is impossible to receive a signal from a non-visible location, the installation of antennas shall be subject to rules and regulations which may be promulgated by the Association setting out preferred alternate locations for antennas.

Declarant and the Association shall have the right, without the obligation, to erect an aerial, satellite dish, or other apparatus (of any size) for a master antenna, cable, or other communication system for the benefit of all or any portion of the Property, should any master system or systems require such exterior apparatus.

F. Basketball Goals and Backboards

No basketball goal, net and/or backboard may be kept, placed or mounted upon any Lot or kept, placed, attached or mounted to any fence or Dwelling without prior written approval by the ARC. All basketball goals and/or backboards are subject to the Guidelines, and reasonable rules and regulations promulgated by the ARC as to type, location, and hours of use. All basketball goals and/or backboards shall at all times be maintained and kept in good condition. If any basketball goal, net and/or backboard is placed within the Subdivision in violation of this Declaration, the Association or its agents shall be authorized to exercise its Self Help remedy to bring the Owner's Lot into compliance with this provision.

G. Common Area

The Association, subject to the rights of the Members set forth in this Declaration, an IURD, and any amendments or Supplemental Amendments thereto, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon and shall keep it in good, clean, attractive and sanitary condition. No Member may appropriate any portion of the Common Area or any improvement thereon for his or her own exclusive use. Any Member or his or her guests, family or invitees that cause damage to the Common Area shall be financially responsible for said damage. The cost of repair, if not timely paid by the Member (within thirty [30] days) shall be assessed against the Member's Homesite and secured by the continuing lien set forth in Article XIV of this Declaration.

H. Exterior Seasonal Decorations

The display of exterior seasonal decorations, by way of illustration but not limited to lights, banners, flags, wreaths, shall be subject to reasonable rules and regulations, if any, promulgated by the Association. Such rules may address the appearance and length of time of such display. Such display shall be maintained and kept in good condition at all times. If any exterior seasonal decorations are placed, or remain, within the Subdivision in violation of this Declaration, the Association or its agents shall be authorized to exercise its Self Help remedy, to bring the Owner's Lot into compliance with this provision.

I. Flagpoles

No flagpole of any kind may be kept, placed, or mounted, to any fence, Dwelling, or upon any Lot without prior written ARC approval. The placement of flagpoles, and use of flags within the Subdivision, shall be subject to the Guidelines. If any flagpole is placed within the Subdivision in violation of this Declaration, the Association or its agents shall be authorized to exercise its Self Help remedy to bring the Owner's Lot into compliance with this provision.

The Declarant, by promulgating this Section, is not attempting to violate any local, state or federal law. This Section shall be interpreted to be as restrictive as possible while not violating any laws of the State of Texas and/or the United States of America.

J. General Nuisances

No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, animal, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding Homesites, Tracts, and users of the Recreational Sites, or Common Areas.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Property. There shall not be maintained any plants, animals, device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Property. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for residential monitoring purposes, shall be installed or operated on the Property, unless required by federal, state or local regulation. The use and discharge of firecrackers and other fireworks is prohibited within the Property.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Tract or Homesite. The pursuit of hobbies or other visible activities, including specifically, without limiting the generality of the

foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, that might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

Notwithstanding anything contained herein to the contrary, the Association shall have the right but not the obligation to enter upon any Common Area and/or street right-of-way and remove signs not authorized by the Association in advance, and/or to regulate (including, but not limited to, the prohibition of) street vending and similar non-approved activities.

K. Monuments and Fences

The Declarant and/or the Association are hereby granted an easement to place, maintain and repair a monument or marker at any entrance to the Subdivision.

On all Lots, side and rear fencing shall be required and shall be in a location and of a material and design as required by the Guidelines and as approved in writing by the ARC. Fencing on Tracts shall be as required by the Guidelines and as approved in writing by the ARC.

Owners shall be responsible for the maintenance, repair and/or replacement of all fences in existence at time of transfer from Builder to Owner. Replacement fences shall be of a similar material and design as originally constructed. The maintenance of any portion of a fence which lies between Lots or Tracts shall be the joint responsibility of the Lot or Tract Owner on whose property the fence lies between. In the event an Owner fails to repair, replace or maintain said fence in a manner consistent with the Subdivision in the sole discretion of the Board, the Association shall have the right, but not the obligation, to enter such property for the repair and/or replacement of such fence after notice to the Owner. Any expense incurred by the Association in effectuating such repairs/replacement shall be the responsibility of the Owner and shall be secured by the continuing lien on the Lot or Tract. Notwithstanding anything contained herein to the contrary, the maintenance, replacement, and/or repair of fencing installed on an Owner's Lot or Tract that is adjacent to a Common Area or street, and that is specifically identified in the IURD associated with any portion of the Subdivision as a "Perimeter Fence",

shall be the responsibility of the Association. The Declarant and/or the Association is hereby granted an easement over, across, upon, and under an Owner's Lot to the extent necessary to install, maintain, repair and/or replace a Perimeter Fence as same may be designated in the applicable IURD. Owners of Lots within Woodforest hereby agree to hold harmless the Declarant and the Association, and their, agents, successors and assigns, and release them from any liability for the placement of, construction, design, repair, maintenance and replacement of Perimeter Fences, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur due to the existence, installation, maintenance, repair, and/or replacement of Perimeter Fences.

L. Out Buildings/Accessory Buildings

No out building and/or accessory building (including, but not limited to sheds, greenhouses, gazebos, play houses, shade trellis) shall be constructed or placed on a Lot within the Subdivision without the prior written approval of the ARC. The Association shall have the right without the obligation to promulgate rules, regulations and guidelines regarding the size, quality, location and type of these structures.

M. Outside Storage and Trash Collection

No equipment, machinery, or materials of any kind or nature shall be stored on any Homesite forward of the fence at the front wall of the Dwelling situated thereon, unless the equipment, machinery or materials is being used temporarily (not more than one week) and is incident to repair or construction of the Dwelling or Homesite. All equipment, machinery, and materials shall be properly stored out of sight of every other Homesite immediately after use of such item, and all trash, debris, excess, or unused materials or supplies shall likewise be disposed of immediately off of the Homesite, or stored out of view until trash collection occurs.

Trash may only be placed outside for collection the evening before collection. Such trash must be contained to protect from animals or spillage and trash cans must be removed from sight the same evening of collection.

N. Parking and Prohibited Vehicles

No motor vehicles or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement, or right-of-way, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the ARC. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) are qualified by current vehicle registration and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) do not exceed Eighty inches (80") in height, or One Hundred inches (100") in width and (e) have no advertising or signs located thereon, may be parked in the driveway on a Lot, however, no vehicle shall be parked so as to obstruct or block a sidewalk or be parked on a grassy area. The restriction concerning advertising and signs shall not apply to any vehicles, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity. Storage of any vehicles in the street is prohibited. Storage shall mean the parking of a vehicle for the shorter of: (i) seventy-two (72) consecutive hours or (ii) seven (7) days in any calendar month, whichever occurs first.

No more than three (3) vehicles (passenger cars or non-commercial trucks or vans consistent with the residential use of a Homesite) may be parked on the driveway of a Homesite at any time. Such vehicles to be parked on a Homesite must meet the restrictions of this Declaration and at all times be operable, unless otherwise completely concealed in an enclosed garage, have current license tags, state inspection stickers, and comply with current mandatory insurance under the laws of the State of Texas. Any vehicle not in daily use as a motor vehicle on the streets and highways of the State of Texas and not in compliance with the foregoing shall be considered stored on the property and such storage is strictly prohibited unless same is completely concealed in an enclosed garage. A vehicle that cannot physically fit within the designed garage of the Dwelling with the door closed will be construed as a vehicle not incident to residential use of a Homesite. Additional rules and regulations for the use, maintenance, and parking on private and/or public streets may be promulgated by the Association.

Recreational vehicles, such as mobile homes, motor homes, campers, and boats are not considered vehicles incident to the residential use of a Homesite and therefore are not permitted

to be stored on Homesites for any period of time greater than forty-eight (48) hours. A recreational vehicle with not more than two (2) axles may be parked in front of or on the Homesite for up to forty-eight (48) hours for loading, and unloading only.

Parking of any vehicle other than in a driveway or within an enclosed garage of a Homesite or other paved area provided for parking is expressly prohibited.

Notwithstanding anything contained herein to the contrary, the Board may promulgate Parking Rules which may change the dimensions of permitted vehicles and/or the length of time for temporary parking or storage of vehicles. If there is a conflict between this Section N and Parking Rules promulgated by the Board, the Parking Rules shall control.

O. Ponds and Other Water Bodies

Swimming, fishing, boating, or other similar activities within the ponds, or other bodies of water within the Subdivision shall be regulated by Rules and Regulations. The Board of Directors has the right to promulgate rules and regulations governing the use of the ponds, and other bodies of water. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of ponds, or other bodies of water within or adjacent to Property.

Notwithstanding the foregoing, the Association, and the Declarant (for so long as the Declarant owns property that is or may be subjected to this Declaration) may use and regulate the use of any ponds or other bodies of water within the Subdivision for the irrigation of the Common Areas, for any other purpose deemed appropriate by the Board or Declarant, subject to the terms of any easement agreement affecting such use. The Declarant's rights under this Section shall be superior to any rights of the Association.

The use of ponds and other bodies of water within the Subdivision are subject to Rules and Regulations, which may be promulgated by the Association.

P. Screening

No Member or occupant of any portion of the Property shall permit the keeping of articles, goods, materials, utility boxes, refuse, trash, storage tanks, or like equipment on the

Property which may be considered a nuisance or hazard in the sole opinion of the Board. Air conditioners, utility boxes, garbage containers, antennas to the extent reasonably possible and pursuant to Article VI, Section E. Antennas, or like equipment, shall not be kept in the open, exposed to public view, or exposed to view from adjacent Homesites and must be screened from view and placed in a location first approved in writing by the ARC. Such screen shall be of a height at least equal to that of the materials or equipment being stored, but in no event shall such screen be more than six feet (6') in height. Added screening must also be provided to shield such stored materials and equipment from grade view from adjacent Dwellings or Common Area. Utility boxes must be screened so that they are not visible from the street and as may be set out in the Guidelines. A combination of trees, hedges, shrubs or fences should be used as screening material, as same may be set out in the Guidelines. All screening designs, locations, and materials are subject to prior written ARC approval. Any such screening installed must be maintained in a clean and neat manner at all times, and may not detract from the appearance of the Property.

Q. Signs

No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot so as to be visible from public view except the following:

1. For Sale Signs. An Owner may erect one (1) sign on his Lot, not exceeding 2'x3' in area, fastened only to a stake in the ground and extending not more than three (3') feet above the surface of such Lot advertising the property for sale.

2. Political Signs. Not more than two political signs, not exceeding 2' x 3' in area, may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such signs shall not be erected more than thirty (30) days in advance of the election to which they pertain and shall be removed within three (3) days after such election.

3. School Spirit Signs. Signs containing information about one or more children residing in the Dwelling and the school they attend shall be permitted so long as the sign is not more than 36" x 36" and is fastened only to a stake in the ground. There shall be no more than

one sign for each child under the age of eighteen (18) residing in the Dwelling, and said signs may not be displayed more than ten (10) days in any calendar month, for more than three (3) months in a calendar year.

4. Security Signs/Stickers. Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the Dwelling shall be permitted so long as the sign is not more than 8" x 8" or the sticker is no more than 4" x 4". There shall be no more than one sign and no more than six (6) stickers located on the windows or doors. Stickers shall also be permitted upon windows and doors for a "Child Find" program or a similar program sponsored by a local police and/or local fire department.

All signs and emblems within the Subdivision are subject to the Guidelines promulgated by the ARC.

A Builder and/or the Declarant may place certain information and advertising signs on Lots without the prior permission of the ARC, so long as such signs are similar to those listed as acceptable for Builder use in the Guidelines promulgated by the ARC, and so long as such signs do not otherwise violate this Declaration.

If any sign is placed within the Subdivision, including but not limited to the streets, street right-of-ways, and Common Areas, in violation of this Declaration, the Association or its agents shall have the right but not the obligation to enter upon any Lot, Tract, Homesite, streets, street right-of-ways, and Common Areas and remove and/or dispose of any such sign violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

R. Swimming Pools/Spas

No above ground swimming pools are permitted. All swimming pools and spas require prior written approval by the ARC as set out in Article IX herein.

S. Tree Removal

No trees greater than three (3) caliper inches to be measured at a point six (6) inches above grade shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in writing by the ARC. In the event of an intentional or unintentional violation of this Section, the violator may be required to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as the Association may determine necessary, in its sole discretion, to mitigate the damage.

T. Window Air Conditioning Units

No window or wall type air conditioners shall be permitted to be used, placed or maintained on or in any building on the Lots, with the exception that window or wall type air conditioners shall be permitted for the benefit of a garage if such air conditioning unit is located at the rear of the garage unit, is screened from public view, and is screened from view by any other Lot, Common Area or Dwelling. All window air conditioning units require prior written ARC approval as set out in Article IX herein.

U. Window Treatments

Within three (3) months of occupying a Dwelling on any Homesite, an Owner shall install appropriate window treatments in keeping with the aesthetics of the Subdivision. Appropriate window treatments would include, by way of illustration and not limitation, curtains and draperies with backing material of white, light beige, cream, light tan, or light gray; blinds or miniblinds of the same colors or natural wood; and/or shutters of the same colors or natural wood. No other window treatment color may be visible from the exterior of the Dwelling. The ARC shall have the sole discretion to determine what window treatments are appropriate.

Expressly prohibited both before and after the initial three (3) months of occupancy are any temporary or disposable coverings not consistent with the aesthetics of the Subdivision, such as reflective materials, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made for or commonly used by the general public for window coverings in a residential subdivision of the same caliber as the Subdivision.

## ARTICLE VII. NOTICES AND EASEMENTS

### A. Easements for Green Belt, Pond Maintenance, Flood Water and Other Landscape Reserves

Declarant and Association reserve for themselves and their successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the green belts, landscape reserves, ponds, and other bodies of water located within the Property (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any of the Common Area, (b) to construct, maintain and repair any fountain, wall, dam, hardedge, canal, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall be transferred to the Association at such time as Declarant shall cease to own any portion of the Property subject to the Declaration, or such earlier time as Declarant may decide, in its sole discretion, and transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any portion of the Property abutting or containing any portion of any of the green belts, canals, ponds, or other bodies of water to the extent reasonably necessary to exercise their rights and responsibilities under this Declaration.

There is further reserved, for the benefit of Declarant, the Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Homesites (but not the Dwellings thereon) extending from the rear Lot line of Lots bordering any ponds, canals, or other bodies of water a distance of sixteen feet (16') in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Property; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the ponds, canals, or other bodies of water within the Subdivision; (c) to maintain and landscape the slopes and banks pertaining to such ponds or other bodies of water; and (d) to enter upon and across such portions of the Property for the purpose of exercising rights and performing obligations under this Declaration. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other person or entity liable for damage resulting from flood due to hurricanes, heavy rainfall, or other natural disasters.

There is further reserved for the Declarant, the Association and/or their designees an easement for the over spray of herbicides, fungicides, pesticides, fertilizers, and water over portions of the Subdivision located adjacent to any landscape/open space reserves, greenbelts, canals, ponds, or other bodies of water.

B. Reserves

Owners of Lots within Woodforest Section 3, are advised that there exist Restricted Reserves "A", "B", "C", "F", and "G" as shown on the Plat (hereinafter the "Restricted Reserves") which reserves are restricted in their use to open space and utilities. Owners of Lots within Woodforest Section 3 hereby agree to hold harmless the Declarant and the Association, and their, agents, successors and assigns, and release them from any liability for the placement of, construction, design, operation, maintenance and replacement the Restricted Reserves, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur in the normal operation of the Restricted Reserves. The Declarant, its successors and assigns, and/or the Association have the right to promulgate rules and regulations governing the use of the Restricted Reserves.

Owners whose Lots are adjacent to or abut the Restricted Reserves shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Restricted Reserves. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Restricted Reserves to their condition immediately prior to said infiltration.

Owners of Lots within Woodforest Section 3, are advised that there exists Unrestricted Reserve "D" as shown on the Plat (hereinafter the "Unrestricted Reserve") which Unrestricted Reserve is unrestricted in its use. Owners of Lots within Woodforest Section 3 hereby agree to hold harmless the Declarant and the Association, and their, agents, successors and assigns, and release them from any liability for the placement of, construction, design, operation, maintenance and replacement the Unrestricted Reserve, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the

Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur in the normal operation of the Unrestricted Reserve. The Declarant, its successors and assigns, and/or the Association have the right to promulgate rules and regulations governing the use of the Unrestricted Reserve.

Owners whose Lots are adjacent to or abut the Unrestricted Reserve shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Unrestricted Reserve. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Unrestricted Reserve to its condition immediately prior to said infiltration.

Owners of Lots within Woodforest Section 3, are advised that there exists Restricted Reserve "E" as shown on the Plat which Restricted Reserve is unrestricted in its use to a private road easement (hereinafter the "Road Easement"). Owners of Lots within Woodforest Section 3 hereby agree to hold harmless the Declarant and the Association, and their, agents, successors and assigns, and release them from any liability for the placement of, construction, design, operation, maintenance and replacement the Road Easement, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur in the normal operation of the Road Easement. The Declarant, its successors and assigns, and/or the Association have the right to promulgate rules and regulations governing the use of the Road Easement.

C. Easements to Serve Additional Property

The Declarant and Association and its duly authorized agents, representatives, and employees, as well as its designees, successors, assignees, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of any annexed property, 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 Areas for construction of roads and for tying in and installation of utilities on any annexed property.

Declarant agrees that if an easement is exercised for permanent access to any annexed 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 to any access roadway serving the property. Such agreement shall provide for sharing of costs based on the ratio that the number of Dwellings or buildings on that portion of the property that is served by the easement and is not made subject to this Declaration bears to the total number of Dwellings and buildings within the Property.

D. Recreation Easement

Owners of portions of the Property, their successors and assigns, hereby acknowledge and agree that the existence of recreation facilities and a golf course adjacent to, or in close proximity to, the Property is beneficial and highly desirable; however, each such Owner acknowledges and agrees that portions of the Property located adjacent to, or in close proximity to, recreation facilities and a golf course are subject to the risk of damage or injury due to errant sports balls. Owners of portions of the Property, their successors and assigns, hereby assume the risk of damage and injury and hereby release the owner of the recreation facilities and the golf course, the Association and/or the Declarant, their agents, employees, officers, successors and assigns, from any and all liability for damage or injury caused by errant sports balls in, on, or around the Property. There is hereby reserved and granted to the Declarant and the Association, as to that portion of the Property that is adjacent to, or in close proximity to, a recreation facility or golf course, along with the Declarant's and Association's servants, independent contractors, agents, members, guests and invitees, a nonexclusive easement over and across the Property, or portions thereof as provided below, for the following purposes:

- (i) Flight of balls (which may include but not be limited to golf, baseballs, softballs, footballs, tennis balls, soccer balls, volley balls) over, across, and upon the Property;
- (ii) Doing of every act necessary and incident to the playing of recreational activities on or within the recreation facility and golf course, including, lighting of parking facilities; and,
- (iii) Creation of noise related to the normal maintenance, operation and recreational activities of the recreation facility and golf course, including, but not limited to, the operation of mowing and spraying equipment. Such noise may occur from early morning until late evening.

E. Rights Concerning Easements and Rights-of-Way

Notwithstanding anything contained herein to the contrary, access and maintenance easements and rights-of-way across each Lot or Tract are hereby expressly reserved to the Declarant, its designees, successors and assigns, in, on, over, and under the Easement Area (as defined hereinbelow) for the following purposes, among others:

1. the installation, construction, repair, replacement, and maintenance of:
  - a. wires, lines, conduits and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television systems, community antenna television cables and other utilities and similar facilities;
  - b. storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, meter boxes, street lights, signage, and for any other public or quasi-public utility facility, service or function, whether above ground or underground;
  - c. slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by the Declarant, its successors and assigns, or which might create erosion or sliding problems, or which might change, obstruct or retard drainage flow, and
  - d. an open space or buffer area between a Lot or Tract and the adjacent Lots or Tracts or street rights-of-way, to provide separation and privacy among adjacent Lots or Tracts.

Subject to any rights dedicated to the public, the Declarant reserves all rights in and to the right-of-way of any public street or road located within, or which may be located on or adjacent to the Subdivision, any walkways, bicycle pathways, and wetlands.

Except with the written approval of the ARC, nothing shall exist or be placed on, over or above any portion of the Easement Area. If in the judgment of the ARC, anything hinders the

Easement Area, the Association may exercise all enforcement rights granted to it in this Declaration, the Bylaws or the laws of the State of Texas.

2. Definition of "Easement Area".—"Easement Area" as used herein, means and refers to a strip of land within each Lot or Tract ten feet (10') in width along the entire distance of the front and rear boundaries of the Lot or Tract, and five feet (5') in width along the entire distance of each side boundary of each Lot or Tract. The Declarant or its designee or any utility company may clear the Easement Area of all structures, improvements, trees, bushes and other growth, including any overhanging branches or protrusions from structures located upon adjacent property.

3. Reservation of Rights for Utilities. The Declarant, its successors, designees, and assigns, reserve the right to build, maintain, repair, sell, grant or lease all utilities in the Easement Area.

4. Right of Entry. The Declarant, its agents, successors, designees, and assigns, shall have the right at reasonable times to enter upon all parts of the Easement Area for any of the purposes for which said easements and rights-of-way are reserved. The Declarant, its agents, successors, designees, and assigns shall be responsible for leaving such Lot or Tract in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of this Section, provided that the obligation set forth above shall not extend to structures and improvements not approved by the ARC. Title to any Lot or Tract or portion thereof, shall not include title to any utility lines in, under, or upon, any street or the Easement Area. The Declarant expressly reserves the right for itself, its successors, designees, and assigns, to construct, operate, maintain, repair, remove and replace utility lines in the Easement Area. The conveyance of a Lot or Tract shall not convey any right to any utility lines located in the Easement Area on such Lot or Tract.

#### F. Woodforest Golf Course

Owners of Lots and Tracts within the Subdivision are advised that in the vicinity of the Subdivision there is, or will, exist the Woodforest Golf Course. The Woodforest Golf Course is

a privately owned facility owned by a separate entity from the Declarant. Ownership of a Lot or Tract within the Subdivision does not automatically entitle an Owner to membership in, or use of, the Woodforest Golf Course facilities. Owners of Lots and Tracts acknowledge that neither the Declarant, nor the Association, has made any representations, nor have the Owners relied upon any representations, as to the continued existence or change in use in the golf course property.

## ARTICLE VIII. DEED RESTRICTION ENFORCEMENT

### A. Authority to Promulgate Rules and Regulations

The Board of Directors has the authority to promulgate, make, modify, amend, cancel, limit, create exceptions to, and enforce reasonable rules and regulations concerning enforcement of the covenants and restrictions contained in this Declaration, any Supplemental Amendment and/or amendments concerning the use and enjoyment of the Property, including without limitation, rules limiting the use of the Common Area, establishing and setting the amount of fines for violations of this Declaration, and all fees and costs generated in the enforcement of this Declaration. Such rules shall be binding upon all Owners, residents, guests, invitees, and licensees, if any. The rights and remedies contained in this Article VIII are cumulative and supplement all other rights of enforcement under applicable law.

### B. Attorney's Fees and Fines

In addition to all other remedies that may be available, after notice and an opportunity to be heard as may be required by §209 of the Texas Property Code, as same may be amended, the Association has the right to collect attorney's fees and/or fines as set by the Board from any Owner that is in violation of this Declaration, any applicable Supplemental Amendment or amendments, any Guidelines, or any other rule or regulation promulgated by the Association. Said attorneys fees and fines shall be added to the violating Owner's assessment account and shall be secured by the continuing lien on the Lot or Tract.

### C. Remedies

Every Owner shall comply with all provisions of this Declaration, the Bylaws, and the rules and regulations of the Association, all other dedicatory instruments of the Association and any amendments or supplements to any of the foregoing. 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, maintainable by the Association. In addition, the Association has the authority, but not the obligation, to enforce the covenants, conditions and restrictions contained in this Declaration, and to regulate the use, maintenance, repair replacement, modification, and appearance of the Subdivision, and may avail itself of any and all remedies provided in this Declaration, any amendment, Supplemental Restriction, the Bylaws or any other dedicatory instruments. Notwithstanding anything contained herein to the contrary, the Board shall have no duty, legal or otherwise, to institute legal or other proceedings on behalf of or in the name of an Owner.

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (i) the Association's position is not strong enough to justify taking any or further action;
- (ii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (iii) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such decision shall not be construed a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

D. Enforcement by Owners

Each Lot and Tract Owner is empowered to enforce the covenants, conditions and restrictions contained in this Declaration; provided, however, no Owner shall have the right to enforce the lien rights retained in this Declaration in favor of the Association and/or other rights, regarding Assessments, retained by the Association.

## ARTICLE IX. ARCHITECTURAL RESTRICTIONS

**NOTE WELL:** The provisions of this Article IX are broad and sweeping and an extremely wide range of activities are regulated hereby. Owners are advised to review this Article and the Guidelines carefully to ensure that they comply with all of the requirements before commencing any work or engaging in any activity on or in connection with their Lot, Tract, or Dwelling to ensure they comply with all of the provisions set forth herein and in the Guidelines. Work commenced, performed, or completed without prior approval as required herein, in the Guidelines, or otherwise in violation of the terms of this Declaration, the Guidelines, or applicable law may subject the Owner of the Lot or Tract to substantial costs, expenses, fees, and penalties, which may be in addition to a requirement that the Lot, Tract, and/or Dwelling be restored to its original condition.

### A. Architectural Review Committee - "ARC"

The initial ARC shall be composed of three (3) individuals designated by Declarant, one of whom may be designated as representative to act on behalf of the ARC. The Declarant reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. The Declarant shall retain the right of ARC appointment until the first to occur of the following:

1. the Declarant no longer owns any portion of the Property, or
2. the Declarant so desires to relinquish its authority over ARC appointment, or
3. From and after the twenty-fifth (25<sup>th</sup>) anniversary of the date this Declaration is recorded in the Real Property Records of Montgomery County, Texas.

At such time, the Board of the Association shall have the right to replace such ARC members by duly appointing three Owners who are Members in Good Standing with the Association. The Board reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. Such removal and/or appointment shall be at the sole discretion of the Board.

The Board shall have the right to review any action or non-action taken by the ARC and shall be the final authority.

At any time prior to the happening of (1), (2), or (3) above, the Declarant may, without obligation, assign to the Board, or such other person the Declarant deems appropriate, all or a portion of Declarant's ARC rights and/or the responsibility for review and approval of modifications to existing Dwellings.

The ARC shall have the right, but not the obligation, to promulgate Guidelines as to construction types and aesthetics as set by the ARC, which may be changed at any time by the ARC without notice to the Owners. The ARC shall have the right to promulgate different Guidelines for different sections of Woodforest.

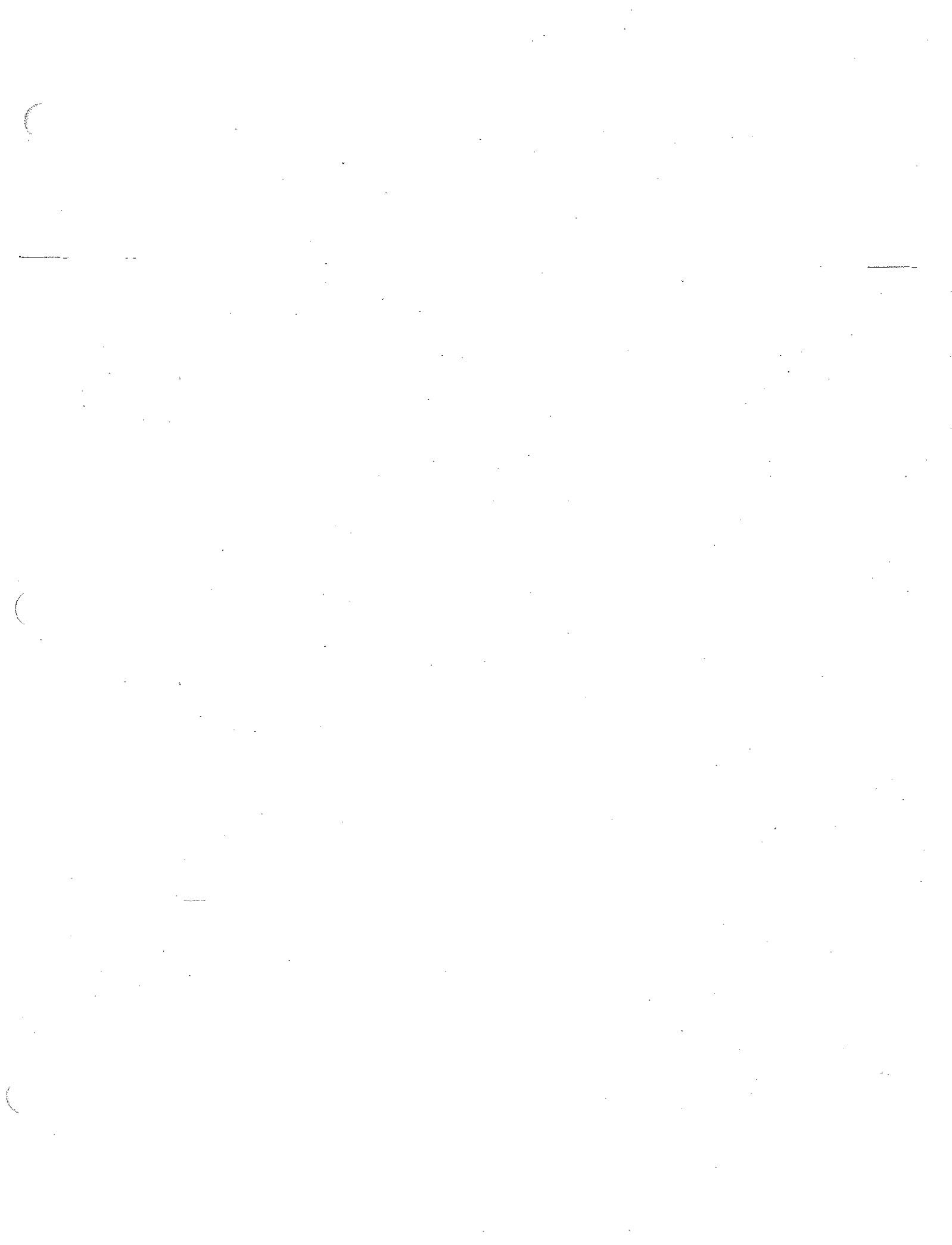
The ARC shall have the authority, but not the obligation, to delegate review and approval or denial of plans for modifications of existing improvements within the Subdivision to a Modifications Committee. The members of the Modifications Committee shall be appointed, and may be removed, by the Declarant for so long as Class B Membership exists, and thereafter by the Board. A denial by the Modifications Committee, if it is created, may be appealed to the ARC.

B. ARC Approval Required

No buildings, Hardscape, additions, modifications or improvements shall be erected, placed or performed on any Tract, Lot or Homesite until the construction plans and specifications including, but not limited to, the site plan, design development plan, and exterior plan have been submitted in duplicate to and approved in writing by the ARC as hereinafter provided. Builders may submit their design plans as master design plans, which plans shall include all specifications, including specifications as to brick color and paint color that may be used when building each design. The ARC or the Board may, at their sole discretion, retain and/or delegate review of plans and specifications to a designated AIA architect or other such person or firm as may be designated by the Board, experienced or qualified to review same, who may then render an opinion to the ARC or Board. Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the structural design or engineering of the improvement or the ultimate construction thereof. In the event the ARC fails to approve such plans and specifications within thirty (30) days after the receipt thereof, they shall be

deemed to be disapproved. The ARC or its assignee, at its sole discretion and to the extent herein not expressly prohibited by this Declaration and any amendment or Supplemental Amendment, is hereby permitted to approve in writing deviations in the architectural restrictions set forth herein in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. The approval of a deviation in the architectural restrictions by the ARC does not obligate the ARC to approve a similar deviation at a later time. Notwithstanding any other provision contained herein, any Dwellings, additions, or improvements erected or placed on any Homesite or Tract shall be deemed to comply with the building requirements of the ARC and related covenants contained in the Declaration unless the ARC so notifies the Owner otherwise in writing within four (4) years from the completion thereof. This provision, however, shall not be deemed a waiver of the right of the ARC or Declarant to enforce the continuing restrictions contained herein.

The Board and/or the ARC shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Homesite, where such actions have not first been reviewed and approved, constitute a violation of the Declaration, the Guidelines or any other documents promulgated by the Board and/or the ARC. The violating Owner shall remove such violating improvements or sitework at its sole expense and without delay, returning same to its original condition or bringing the Homesite into compliance with the Declaration, ARC documents and any plans and specifications approved by the ARC for construction on that Homesite. If an Owner proceeds with construction that is not approved by the ARC, or that is a variance of the approved plans, the Association may assess fines as provided in Article XIX, Section F and may continue to assess such fines until ARC approval is granted or the violation is removed. This Declaration is notice of such liability for violation and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time or loss of business involved. Each Owner acknowledges that it may not always be possible to identify objectionable features of proposed construction or alteration of improvements until such construction and/or alteration is completed, in which case it may be unreasonable to require changes to the improvements involved; however, the ARC may refuse to approve similar proposals in the future.



Written notice may be delivered to the Owner, or any agent or contractor with apparent authority to accept same, and such notice shall be binding on Owner as if actually delivered to Owner.

The ARC or its agents or assigns shall have the right, but not the obligation, to enter any Homesite to determine if violations of this Declaration, the Guidelines, or any other documents promulgated by the ARC exist. In so doing, the ARC shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

The ARC shall have the right to set reasonable time constraints for both the commencement and completion of construction, which constraints shall be no less than ninety (90) days to commence construction and nine (9) months to complete construction. If construction fails to start before the designated commencement date or is not completed before the designated completion date the plans shall be deemed not approved. Plan approval shall be effective for twelve (12) months after issued by the ARC. If no construction has been commenced within the twelve (12) month period after ARC approval, the plan approval shall expire, and plans must be re-submitted prior to commencement of construction.

The ARC has the right to charge a review fee, to be established by the Board, for review of any plans or specifications submitted for approval to the ARC.

C. Building Setbacks

No Dwelling or other structure shall be erected nearer to any street or property line than as established in the Guidelines or the applicable plat. In the event there is a conflict between the Guidelines, any other documents imposed upon the Property that contains a setback requirement, and the applicable plat, the more restrictive will control.

The combining of no more than two (2) Lots to create one Homesite may be permitted subject to prior written approval of the ARC and partial release(s) by Declarant, to the extent necessary, of easements created herein. All governmental requirements must be complied with as to combining one Lot with another Lot. If Lots are combined the side set back lines shall be measured from resulting side property lines rather than from the Lot lines as indicated on the

Plat. The combining of two Lots shall not forgive the obligation to pay an assessment on all Lots so combined. By way of example and not limitation, if two Lots are combined to create one Homesite, the Homesite shall be obligated to pay two assessments.

D. Landscaping

All open, unpaved space in the front and at the sides of a Homesite, shall be planted and landscaped. Landscaping in accordance with the plans approved by the ARC must be installed prior to occupancy of any Dwelling constructed on the Property.

Any significant changes in the existing landscaping on any Homesite must have prior written approval from the ARC.

Notwithstanding anything contained herein to the contrary, landscaping minimum standards may be established in the Guidelines. The ARC shall have the sole discretion to determine if, as, or when the landscaping on a Lot does not meet the minimum standards established in the Guidelines.

E. Grading and Drainage

Topography of each and every Homesite must be maintained with proper grading and drainage systems such that runoff of water (rain or other precipitation, or manmade irrigation) does not cause undue erosion of the subject Homesite itself or any other Homesites, whether adjacent to the subject Homesite or not, or to the Common Areas. Owners causing (either directly or indirectly) erosion or other incidental damage to personal or real property due to inadequate or defective grading or drainage measures on their own Homesite, or because of excess runoff shall be liable to all such damaged parties for the replacement, repair and/or restoration of such damaged real or personal property.

Owners shall be responsible for ensuring that all local, state and federal rules and regulations regarding drainage and run-off are met.

F. Temporary Structures

Temporary structures may only be erected on undeveloped Property by Builders or the Declarant with the prior written approval of the ARC. Even temporary structures shall be

maintained in good condition and all construction debris shall be contained to the site. Time limitations for such structures are limited to the period of active and exclusive construction and sales within the Subdivision.

G. Garages

Dwellings must at all times have either attached or detached garages. Garages are required to maintain fully operational overhead doors which are in good condition at all times. No garages may be used for or converted to a living area. Garage setbacks shall be as established in an IURD or the Guidelines.

H. Minimum Square Footage

The minimum square footage of Dwellings in Woodforest shall be as established in the Guidelines or as set out in the IURD. The ARC shall have the authority to determine the distribution of the square footage, or require a greater square footage for Dwellings containing more than one story. Notwithstanding anything contained herein to the contrary, the Declarant hereby reserves the unilateral right to develop the Subdivision, and/or any additional property which may be subjected to this Declaration, in any manner consistent with residential use, including but not limited to Dwellings which may contain less than the square footage in other portions of the Subdivision.

I. Land Use Restrictions

Prior to sale by Declarant of any Lot or Tract of land subject to this Declaration, as same may be amended from time to time, or the construction of any buildings thereon, the Declarant shall designate the land use for such parcel in an IURD. There shall be no change in the land use designation for such parcel except as permitted under the IURD. In designating the land use for portions of the Property that have been or will subsequently be subdivided, developed and sold as a part of a common scheme relative to the designated land use (a "Development Tract"), the Declarant may create reciprocal easement rights binding upon and benefitting each subsequent Owner of such Development Tract. The land use designated to a Development Tract may be changed with the consent of the Declarant and the owners of two-thirds (2/3) of the Lots within such Development Tract, provided that the designated land use may not be changed as to a particular Lot without the consent of the Owner of such Lot. Each land use designation and all

changes thereto shall be made by instrument recorded in the Real Property Records of Montgomery County, Texas.

## ARTICLE X. MAINTENANCE

### A. General Maintenance

Each Owner shall maintain and keep in good repair his or her Dwelling and all structures, parking areas and other improvements, including driveway and its apron portion forward of the building line comprising the Homesite or Tract. All structures and other improvements designed to be painted must be kept painted and the paint may not be allowed to become faded, cracked, flaked or damaged in any manner. Grass, vegetation and weeds on each Homesite and Tract shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. Grass growing onto or over sidewalks, driveways, and curbs shall be presumed to be unattractive.

### B. Landscaping

In the event any Owner of any Homesite or Tract within the Property fails to maintain the landscaping, grass or vegetation of a Homesite or Tract in a manner consistent with the overall standard established within the Property and satisfactory to the Board, the Board, after ten (10) days' notice to the Owners of the Homesite or Tract, setting forth the action intended to be taken by the Association and after approval by a majority vote of the Board, shall have the right but not the obligation, through its agent, contractors and/or employees, to exercise its Self Help remedy to bring the Owner's Lot or Tract into compliance with this provision.

### C. Dwelling and Improvement Exteriors

In the event any Owner of any Homesite or improvement on a Tract, fails to maintain the exterior of the Homesite or improvement, including the exterior of the Dwelling, improvement, or other structures and the parking areas, in a manner consistent with the overall standard established within the Property as solely determined by the Board, the Board, after thirty (30) days' notice to the Owner of the Homesite or Tract setting forth the action intended to be taken by the Association and after approved by a majority vote of the Board, shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter upon said Homesite

or Tract and to exercise its Self Help remedy to bring the Owner's Lot or Tract into compliance with this provision.

D. Other Hazards

To the extent necessary to prevent rat infestation, diminish fire hazards and/or diminish hazards caused by structural damage, the Association shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter any unoccupied Dwelling, Tract, or other improvement located upon such Homesite or Tract, without notice to take the action necessary to prevent such rat infestation, diminish such fire hazards or diminish hazards caused by structural damage at the Owner's expense. Any such expenses, including administrative fees set by the Board, incurred by the Association shall be secured by the continuing lien created in Article XIV.

E. Liability, Cost and Approval

Neither the Association nor its agents, contractors, or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance, landscaping or other work authorized in this Declaration. The cost, including administrative fees set by the Board, of such exterior maintenance, interior hazard diminution and other work shall be the personal obligation of the Owner of the Homesite or Tract on which it was performed and shall become part of the Assessment payable by the Owner and secured by the lien retained in the Declaration. Alternately, the Association or any Owner of a Homesite or Tract may bring an action at law or in equity to cause the Owner to bring said Homesite or Tract into compliance with these restrictions.

All Owners' replacement, repair and restoration practices as to the improvements on Property within the Subdivision are subject to the prior written approval of the ARC and must comply with all Guidelines which may change from time to time, as found necessary and appropriate in the ARC's sole discretion.

## ARTICLE XI. STANDARDS AND PROCEDURES

The ARC may establish and promulgate Guidelines, which the ARC may modify or amend as it deems necessary and appropriate for the orderly development of the Property and the Subdivision, including, but not limited to, those portions of the Guidelines regarding workmanship, materials, building methods, observance of requirements concerning installation and maintenance of public utility facilities and services, and compliance with governmental regulations. The Guidelines may be amended by the ARC without notice, but they shall not be applied retroactively to reverse a prior approval granted by the ARC or the Association to any Owner or prospective purchaser of any Homesite or Tract. Subject to the provisions of this Article, there shall be no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive. The rules, standards, and procedures set forth in the Guidelines, as same may be amended from time to time, shall be binding and enforceable against each Owner in the same manner as any other restriction set forth in this Declaration.

## ARTICLE XII. VARIANCES

The Board, upon the recommendation of the ARC, or its duly authorized representative, may authorize variances from compliance with any of the architectural provisions of this Declaration, any amendment, Supplemental Amendment, or Guidelines, unless specifically prohibited, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing, must be approved by at least a majority of the Board, and shall become effective upon execution of the variances shall be signed by a member of the Board and recorded in the real property records of Montgomery County, Texas. If such variances are granted, no violation of the covenants, conditions, or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations.

No granting of a variance shall be relied on by any Member or Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any provision of this Declaration. Action of the ARC or Board in granting or denying a variance is a decision based expressly on one unique set of circumstances and need not be duplicated for any other request by any party or the same party for any reason whatsoever.

Notwithstanding anything contained herein to the contrary, for so long as Class B membership exists, the Declarant shall have the unilateral right to grant a variance of any of the covenants, conditions and restrictions contained herein so long as the variance is in keeping with the aesthetics of the Subdivision.

#### ARTICLE XIII. LIMITATION OF LIABILITY

NEITHER DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD, NOR ANY OF THE RESPECTIVE OFFICERS, AGENTS, MANAGERS, PARTNERS, DIRECTORS, MEMBERS, SUCCESSORS OR ASSIGNS OF THE ABOVE, SHALL BE LIABLE IN DAMAGES OR OTHERWISE TO ANYONE WHO SUBMITS MATTERS FOR APPROVAL TO ANY OF THE ABOVE-MENTIONED PARTIES, OR TO ANY OWNER AFFECTED BY THIS DECLARATION BY REASON OF MISTAKE OF JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL, DISAPPROVAL, OR FAILURE TO APPROVE OR DISAPPROVE ANY MATTERS REQUIRING APPROVAL HEREUNDER. APPROVAL BY THE ARC, THE BOARD, OR THE ASSOCIATION, OR ANY OF THEIR RESPECTIVE OFFICERS, PARTNERS, DIRECTORS, AGENTS, MANAGERS, MEMBERS, SUCCESSORS OR ASSIGNS, IS NOT INTENDED AS ANY KIND OF WARRANTY OR GUARANTEE AS TO THE INTEGRITY OR WORKABILITY OF THE PLANS NOR THE CONTRACTORS USED.

#### ARTICLE XIV. ASSESSMENTS

A. Creation of the Lien and Personal Obligation of Assessments

The Owners of any Lot, Homesite, or Tract by virtue of ownership of Property within the Subdivision, covenant and agree to pay to the Association as applicable:

1. Annual Assessments;
2. Special Assessments;

3. Neighborhood Assessments;
4. Commercial Area Assessments; and
5. Foundation Fee
6. Capitalization Fee

The Annual, Special, Neighborhood, Neighborhood Assessments, Commercial Area Assessments, (collectively the "Assessment"), the Capitalization Fee, and the Foundation Fee as set out hereinbelow, together with attorney's fees, late fees, interest and costs shall be a charge and continuing lien upon the Homesite, Lot, and/or Tract against which each such Assessment is made. Each such Assessment, together with attorney's fees, late fees, interest and costs, shall also be the personal obligation of the person or entity who was the Owner of the land at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them. All payments shall be applied first to costs and attorney fees, then to interest, and then to delinquent Assessments. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or the Board under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association. The obligation to pay Assessments is a separate covenant on the part of each Owner of a Lot or Tract.

B. Purpose of Assessments

Assessments levied by the Association shall be used for any legal purpose for the benefit of the Subdivision as determined by the Association and, in particular, may, by way of example and not limitation or obligation, include maintenance, repair or improvement of any Common Area, sidewalks, pathways, fountains, parkways, private streets and roads, boulevards, esplanades, setbacks and entryways, patrol service, fire protection, emergency medical service, street cleaning, street lighting, mosquito control, landscape architecture or forest preserves, greenbelts, fences or walls, regulatory signage or directional signage, signalization, special pavement markings, entrances and entrance monuments, public or private art or sculptures, other services as may be in the Property's and Owner's interest and for promotion of the recreational interests of the Members which may include payment for recreational improvements on

Recreational Sites, reserves and/or Common Areas, including but not limited to pools, community centers, playgrounds, playing fields and all structures and equipment located thereon, and services provided therefor, all buildings, services, improvements and facilities deemed necessary or desirable by the Board in connection with the administration, management, control and operation of the Subdivision. Parkways, fountains, private streets, roads, esplanades, setbacks and entryways that are not contained in any Common Area may be included in the Association's maintenance if, in the sole discretion of the Board, the maintenance of such areas benefits the Association's Members. Such share agreements for maintenance and improvement shall require the consent of a majority of the total number of directors of the Association. Additionally, Assessments levied by the Association may be used, in the sole discretion of the Association, to pay the Association's fair allocation for maintenance costs for the participation in any agreement among other property owners associations (whether residential, multi-family, commercial or mixed use) in the area and for consolidated programs that provide consistency and economics of scale. Approval to enter such agreements shall require a majority vote of the Board.

C. Annual Assessment

The Property shall be subject to the Annual Assessment, as follows:

1. Creation

Payment of the Annual Assessment shall be the obligation of each Owner and the Declarant and shall constitute a lien on the Homesite, or Lot(s), binding and enforceable as provided in this Declaration.

2. Rate

The initial Annual Assessment established by the Association shall not exceed Nine Hundred Fifty and 00/100 Dollars (\$950.00) per Lot. The combining of two or more Lots shall not forgive the obligation of the Owner(s) of such combined Lots to pay assessments on all Lots so combined. By way of example and not limitation, if two Lots are combined to create one Homesite, the Homesite shall be obligated to pay two assessments. Declarant shall elect annually to either subsidize the approved budget for the subsequent year by paying the difference between the total approved operating budget

for the year less the total amount due by Class A Members, or elect to pay assessments at the rate of fifty percent (50%) of the amount assessed other Class A Members for each Lot owned. Declarant is required to provide written notice to the Board each year by September 1 of the elected option. Failure to provide such notice will result in Declarant being billed in the manner of the last option taken by Declarant. If no option has ever been taken by Declarant, then Declarant shall be billed the difference between the total approved operating budget for the year less the total amount due by Class A Members. A Builder shall be responsible to pay one hundred percent (100%) of the assessment of other Lot Owners, for the period of time that the Builder owns a Lot. Notwithstanding anything contained herein to the contrary, any Lot being used by Declarant as a model home or sales office Lot shall not be subject to any Assessments created herein. Upon conveyance of such model home or sales office Lot to a purchaser, said Lot shall thereafter be subject to all Assessments and charges provided for in this Declaration and as secured by the lien created herein.

If Tracts are included in the Property, the rate and purpose of Commercial Area Assessments applicable to such Tracts will be determined within an Annexation Agreement or an IURD applicable to that portion of the Property.

3. Commencement

For purposes of calculation, the initial Annual Assessment for a Lot or Tract shall commence on the date of closing. Annual Assessments shall be due in advance on January 1<sup>st</sup> for the coming year and shall be delinquent if not paid in full as of January 31<sup>st</sup> of each year.

4. Proration

An Owner's initial Annual Assessment shall be made for the balance of the calendar year as determined on a pro-rata basis and shall become due and payable on the commencement date described above. The Annual Assessment for any year after the first year shall be due and payable on the first day of January. Any Owner who purchases a Lot or Lots after the first day of January in any year shall be personally responsible for a pro-rated assessment amount for that year.

5. Levying of the Assessment

The Annual Assessment shall be levied at the sole discretion of the Board. The Board shall determine the sufficiency or insufficiency of the then-current Annual Assessment to reasonably meet the expenses for providing services and capital improvements in the Subdivision and may, at its sole discretion and without a vote by the Members, increase the Annual Assessment in an amount up to ten percent (10%) annually. The Annual Assessment may only be increased by more than ten percent (10%) annually if such increase is approved by Members in Good Standing who represent a majority of the votes in the Association present, in person or by proxy, at a meeting called for said purpose at which a quorum is present in person or by proxy. The Annual Assessment shall not be adjusted more than once in a calendar year nor shall any increase be construed to take effect retroactively, unless otherwise approved by Members representing a majority of the votes subject to such Assessments present at a meeting called for said purpose at which a quorum is present in person or by proxy.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price and method of payment differentials. The Board may require advance payment of Assessments at closing of the transfer of title to a Lot, and impose special requirements for Owners with a history of delinquent payment.

The annexation of all or a portion of property adjoining Woodforest may result in the Board adjusting the rate of Assessments to be charged to the annexed property such that the adjusted Assessments may not be uniform with the Assessments being charged to other Owners. The Board shall have the absolute discretion to determine any such adjustment on a case-by-case basis.

D. Special Assessments for Capital Improvements

In addition to the Annual Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement in the Common Area or any unbudgeted expenses or expenses in excess of those budgeted, unusual,

infrequent expense benefiting the Association, provided that any such Special Assessment shall have the approval of both a majority of the Class A Members eligible to vote and a majority of the Class B Members present at a meeting duly called for this purpose at which a quorum is present. Such Special Assessments will be due and payable as set forth in the resolution authorizing such Special Assessment and shall be levied only against those Owners subject to the Annual Assessment as set forth in Section C hereof and shall be prorated in accordance therewith. The Association, if it so chooses, may levy a Special Assessment against only those Members benefited by or using the capital improvement for which the Special Assessment is being levied. Special Assessments shall be due upon presentment of an invoice, or copy thereof, for the same to the last-known address of the Owner.

E. Neighborhood Assessments

If a Neighborhood chooses to establish Neighborhood Facilities or Neighborhood Wide Services as evidenced by a petition signed by Owners representing at least two-thirds ( $2/3^{\text{rd}}$ ) of the Lots in a Neighborhood, Neighborhood Assessments must be imposed to pay for Neighborhood Expenses, payments of such Neighborhood Assessments shall be the exclusive obligation of all Owners owning Property within such Neighborhood and will not be charged to Members not owning property within such Neighborhood. Any increase in a Neighborhood Assessment, once established by the Board, must be approved by Owners representing at least two-thirds ( $2/3^{\text{rd}}$ ) of the Lots in the Neighborhood. Neighborhood Assessments shall be governed by this document or as supplemented by a Supplemental Amendment, Annexation Agreement, or IURD creating such Neighborhood Assessment. Notwithstanding anything contained herein to the contrary, if/when a Neighborhood Assessment is established, it shall require the written approval of the Owners representing at least two-thirds ( $2/3^{\text{rd}}$ ) of the Lots within that Neighborhood to thereafter decrease or terminate the Neighborhood Assessment; provided however, for so long as Class B membership exists, the Declarant must also approve such establishment and termination of Neighborhood Assessment. For the purposes of the approvals required in this subsection E, each Lot within a Neighborhood shall be entitled to cast One (1) vote. Owners shall exercise their votes pursuant to the Bylaws, and as set out herein in Article IV, Section B.

F. Capitalization Fee

Each Owner, other than the Declarant, of a Lot or Tract within Woodforest hereby covenants and agrees to pay to the Association a one-time payment, which shall be an amount equal to one hundred percent (100%) of the Annual Assessment, or Commercial Area Assessment (as those terms are defined in Article XIV hereof), as applicable (the "Capitalization Fee"), at the time of the first transfer of title to a Lot or Tract. For the purposes of this Subsection "F", the Declarant shall not be included in the defined term "Owner." The Capitalization Fee shall be paid by an Owner (other than the Declarant) to the Association at the first transfer of a Lot or Tract to an Owner other than the Declarant. The payment of the Capitalization Fee shall be secured by the continuing Assessment lien set out herein and shall be collected in the same manner as Assessments. The Capitalization Fee may be used by the Association for any purpose, which in the Association's sole discretion is for the benefit of the Subdivision, including, but not limited to, maintenance of the lakes, ponds, and other bodies of water, installation, maintenance and improvement of Recreation Sites and the facilities located thereon, maintenance of gates, fences, and/or monuments, if any, which in the Association's sole discretion, benefit the Subdivision, and/or placement of such Capitalization Fee in a reserve account.

G. Collection and Remedies for Assessments

1. The Assessments provided for in this Declaration, together with attorneys' fees, interest, late fees and costs as necessary for collection, shall be a charge on and a continuing lien upon the land against which each such Assessment is made. Each such Assessment, together with attorney's fees, interest, late fees, and costs, shall also be the personal obligation of the Owner of the land at the time the Assessment became due. This personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

2. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the Assessments provided for in this Declaration by reason of non-use or abandonment.

of the proceeds of such sale, there shall be paid all expenses incurred by the Association in connection with such default, including attorneys' fees and trustee's fees; second, from such proceeds there shall be paid to the Association an amount equal to the amount of Assessments in default inclusive of interest, late charges and attorneys' fees; and, third, the remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each occupant of any such Lot or Tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

H. Subordination of the Lien to First Mortgages

The lien for Assessments, including interest, late charges, costs and attorney's fees, provided for herein shall be subordinate to the lien of any first mortgage on any Lot or Homesite. The sale or transfer of any Lot or Homesite shall not affect the Assessment lien. The sale or transfer shall not relieve such Lot or Homesite from lien rights for any Assessments thereafter becoming due. Where the mortgagee holding a first mortgage of record or other purchaser of a Lot or Homesite obtains title pursuant to judicial or non-judicial foreclosure of the mortgage, it shall not be liable for the share of the Assessments or other charges by the Association chargeable to such Lot or Homesite that became due prior to such acquisition of title. However, from the date of foreclosure forward, such Assessments shall again accrue and be payable to the Association.

I. Exempt Properties

All properties dedicated to any accepted use by a municipal, county, federal, or other governmental authority and all properties owned by charitable or non-profit organizations that are exempt from taxation by federal laws shall be exempt from the Assessments created herein and the Owners thereof shall have no voting rights with respect thereto.

J. Notice of Delinquency

The Association or its agent or designee shall be required to give a written notice of the Assessment to any Owner who has not paid an Assessment that is due under this Declaration. Such notice must be mailed to the Owner's last known address. The address of the Lot, Homesite or Tract shall be presumed to be the address for proper notice unless written notice of another address shall be provided by the Owner to the Association.

3. In order to secure the payment of the Assessments hereby levied, an Assessment lien is hereby reserved in each deed from the Declarant to the Owner of each parcel of property in the Subdivision, which lien may be foreclosed upon by non-judicial foreclosure pursuant to the provisions of Section 51.002 of the Texas Property Code (or any successor statute); each Owner grants a power of sale to the Association to sell such property upon default in payment by any amount owed. Alternatively, the Association may judicially foreclose the lien or maintain an action at law to collect the amount owed.

The President of the Association or his or her designee is hereby appointed Trustee to exercise the Association's power of sale. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.

Although no further action is required to create or perfect the lien, the Association may, as further evidence give notice of the lien, by executing and recording a document setting forth the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The Association shall also have the right but not the obligation to notify a delinquent Owner's lender, in writing, of such Owner's delinquency and default.

In the event the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 (or any successor statute) and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale no less than twenty one (21) days prior to the date of the proposed foreclosure sale, postage prepaid, registered or certified mail, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association or by hand delivery. At any foreclosure proceeding, any person or entity, including but not limited to the Declarant, Association or any Owner, shall have the right to bid for such Property at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period such foreclosed property is owned by the Association following foreclosure, 1) no right to vote shall be exercised on its behalf; and, 2) no Assessment shall be levied on it. Out

ARTICLE XV. FOUNDATION

A. Organization

The Woodforest Community Foundation, Inc., (the "Foundation") a Texas non-profit corporation, its successors, replacements and assigns has been, or may be, incorporated for the purpose of providing beneficial services and programs to Woodforest, its residents and the community surrounding Woodforest.

B. Purpose

The principal purposes of the Foundation are to invest in the future of Woodforest and the surrounding community to supplement and complement the functions of the Association, enhance services and resources to the community through the sponsorship of programs, activities and events in and around Woodforest. The Foundation is an entity entirely separate and independent from the Association.

The Foundation shall have the right, without the obligation, to contract with the Association for collection of the Foundation Fee, defined below, or for any other Foundation actions, as determined by the Foundation's Board of Trustees.

C. Alternative Entities

In the event that the Foundation is dissolved or for any other reason ceases to exist, the Foundation, at its sole discretion, may form or designate another non-profit corporation to receive the Foundation Fees provided for pursuant to this Article XV. If the Foundation fails to designate or form such non-profit corporation, the Association shall have the authority to collect and utilize the Foundation Fees as provided in this Article XV.

D. Fee

The Foundation is funded by Foundation Fees, which shall be levied on every real estate transaction (unless excluded) as set out below.

1. Authority

On behalf of the Foundation, the Foundation Board shall have the authority to establish and collect a Foundation Fee from the transferring Owner upon each transfer of

title to a Lot or Tract within Woodforest (except transfers which are specifically hereafter exempted). If, in the future, legislation does not permit payment of such Foundation Fee to the Foundation, then the Foundation Fee shall be due and payable to the Association, without changing the purposes for which the Foundation Fee can be used. Such Foundation Fee shall be payable to the Foundation at the closing of the transfer of the Lot or Tract and shall be secured by the Foundation's lien for fees under this Article XV. The transferring Owner shall notify the Foundation's Secretary of a pending title transfer at least seven days prior to the transfer. Such notice shall include the name of the transferee, the date of title transfer, and other information as the Foundation Board may require.

2. Creation

Payment of the Foundation Fee shall be the obligation of each Owner and shall constitute a lien on the Homesite, Tract(s), or Lot(s), binding and enforceable as provided in this Declaration.

3. Laying of the Foundation Fee for Lots and Tracts

(a) The Foundation Board from time to time shall determine the amount of the Foundation Fee for Lots. The Foundation Fee may be based upon a sliding scale which varies in accordance with the "Gross Selling Price" of the Lot or Homesite or another factor as determined by the Foundation Board; provided, any such Foundation Fee shall be an amount not greater than one-quarter of one percent (0.25%) of the Gross Selling Price of the Lot or Homesite upon the conveyance of a Lot or Homesite from a Builder to an Owner, or one-half of one percent (0.50%) of the Gross Selling Price of the Lot or Homesite upon the conveyance of said Lot or Homesite by an Owner other than a Builder to another person. For the purpose of determining the amount of the Foundation Fee, the Gross Selling Price shall be the total cost to the transferee of the Lot or Homesite including improvements, as indicated on the title company's closing statement, if produced as part of such transaction

(b) Notwithstanding anything contained herein to the contrary, the initial Foundation Fee due upon the transfer of each Tract (other than the initial purchase by the Declarant)

shall be Two Thousand and 00/100 Dollars (\$2,000.00) per acre. The transferring Owner shall notify the Foundation's Secretary of the transfer of title within seven (7) business days after the transfer. The Foundation Board from time to time shall determine the amount of the Foundation Fee for Tracts.

4. Purpose

All Foundation Fees shall be collected by the Foundation which shall be deposited into a segregated account used for such purposes as the Foundation, acting through the Foundation Board, deems beneficial to the general good and welfare of the Woodforest community. By way of example and not limitation, such Foundation Fees might be used to assist the Foundation, or one or more non-profit entities, or community projects in funding:

- (i) preservation and maintenance of natural areas, wildlife preserves, archaeological sites, areas of historical or cultural significance or similar conservation areas, and sponsorship of educational programs and activities which contribute to the overall understanding, appreciation and preservation of the natural environment at Woodforest;
- (ii) programs and activities which serve to promote a sense of community within Woodforest, such as recreational leagues, cultural programs, educational programs, festivals and holiday celebrations and activities, a community computer network, and recycling programs;
- (iii) social services, community outreach programs and other charitable causes;  
and
- (iv) enhancement and/or improvement of infrastructure within Woodforest;  
and
- (v) any other expenditure, service, enhancement, improvement, or program agreed to by the Foundation and Association Boards.

5. Timing of Foundation Fee

The Foundation Fee shall be charged on the transferor on the date of the sale of a Lot or Tract. Foundation Fees shall be due on the day of closing of a Lot or Tract and shall be delinquent if not paid in full on the day of closing for said Lot and/or Tract.

6. Exempt Transfers

Notwithstanding the above, no Foundation Fee shall be levied upon transfer of title to a Lot, Homesite or Tract:

- (i) by a co-Owner to a person who was a co-Owner immediately prior to such transfer;
- (ii) to the Owner's estate, trust, surviving spouse, or child upon the death of the Owner;
- (iii) to any entity controlling, controlled by, or under common control with the grantor; provided, upon any subsequent transfer of an ownership interest in such entity, the Foundation Fee shall become due. "Control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or company, whether through the ownership of voting securities, by contract, or otherwise;
- (iv) to an institutional lender pursuant to a mortgage or upon foreclosure of a mortgage;
- (v) to Declarant (if Declarant repurchases a Lot or Tract); and
- (vi) by Declarant.

7. Creation of Lien & Collection and Remedies for Foundation Fees

(a) The Foundation Fee provided for in this Declaration, together with attorneys' fees, interest and costs as necessary for collection, shall be a charge on and a continuing lien upon the Lot, Homesite or Tract against which each such Fee is charged. Each such Foundation Fee, together with attorney's fees, interest and costs, shall also be the personal obligation of the Owner (the selling Owner) of the land at the time the Foundation Fee became due. This personal obligation for delinquent Foundation Fees shall not pass to successors in title unless expressly assumed by them.

(b) Any Foundation Fee not paid by the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by reason of non-use or abandonment.

(c) In order to secure the payment of the Foundation Fee hereby levied, a Foundation Fee lien is hereby reserved in each deed from the Declarant to the Owner of each parcel of property in Woodforest, which lien may be foreclosed upon by non-judicial foreclosure pursuant to the provisions of Section 51.002 of the Texas Property Code (or any successor statute); each Owner grants a power of sale to the Foundation to sell such property upon default in payment by any amount owed. Alternatively, the Foundation may judicially foreclose the lien or maintain an action at law to collect the amount owed.

(d) The President of the Foundation or his or her designee is hereby appointed Trustee to exercise the Foundation's power of sale. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.

(e) Although no further action is required to create or perfect the lien, the Foundation may, as further evidence give notice of the lien, by executing and recording a document setting forth the amount of the delinquent sums due the Foundation at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Foundation to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The Foundation shall also have the right but not the obligation to notify a delinquent Owner's lender, in writing, of such Owner's delinquency and default.

(f) In the event the Foundation has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 (or any successor statute) and to exercise the power of sale hereby granted, the Foundation shall mail to the defaulting Owner a copy of the Notice of Trustee's

Sale no less than twenty one (21) days prior to the date of the proposed foreclosure sale, postage prepaid, registered or certified mail, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Foundation or by hand delivery. At any foreclosure proceeding, any person or entity, including but not limited to the Declarant, Association, the Foundation or any Owner, shall have the right to bid for such Property at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period such foreclosed property is owned by the Foundation following foreclosure, 1) no right to vote shall be exercised on its behalf; and, 2) no Assessment shall be levied on it. Out of the proceeds of such sale, there shall be paid all expenses incurred by the Foundation in connection with such default, including attorneys' fees and trustee's fees; second, from such proceeds there shall be paid to the Foundation an amount equal to the amount of Assessments in default inclusive of interest, late charges and attorneys' fees; and, third, the amount of Foundation Fees in default, and fourth, remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each occupant of any such Lot or Tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

(g) The Foundation or its agent or designee shall be required to give a written notice of the fee to any Owner who has not paid a fee that is due under this Declaration. Such notice must be mailed to the Owner's last known address. The address of the Lot, Homesite or Tract shall be presumed to be the address for proper notice unless written notice of another address shall be provided by the Owner to the Foundation.

8. Subordination of the Lien to First Mortgages

The lien for Foundation Fees, including interest, late charges, costs and attorney's fees, provided for herein shall be subordinate to the lien of any first mortgage on any Lot or Homesite and to the Association's Assessment lien provided for in Article XIV hereof. The sale or transfer of any Lot, Homesite or Tract shall not affect the Foundation Fee

lien. The sale or transfer shall not relieve such Lot, Homesite, or Tract from lien rights for Foundation Fees or any other Foundation Fees thereafter becoming due. Where the mortgagee holding a first mortgage of record or other purchaser of a Lot, Homesite, or Tract obtains title pursuant to judicial or non-judicial foreclosure of the mortgage, it shall not be liable for the share of the Foundation Fees or other charges by the Foundation chargeable to such Lot, Homesite, or Tract that became due prior to such acquisition of title.

#### **ARTICLE XVI. MODIFICATION AND TERMINATION OF COVENANTS**

This Declaration may be amended, modified, or terminated by the filing of a recorded instrument executed by the Association or its legal representatives, successors or assigns. So long as Class B membership exists, approval of two-thirds (2/3) of the combined total votes of Class A and Class B Membership shall be required to amend, modify or terminate this Declaration. However, the Declarant may unilaterally amend this Declaration at any time without the joinder or consent of any Owners, entity, Lender or other person to amend this Declaration if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on Lots and Homesites; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots or Homesites; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on Lots or Homesites; or (e) for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein; provided, however, any such amendment shall not adversely affect the title to any Lots or Homesites unless the Owner shall consent thereto in writing.

After the termination of Class B membership, approval by the Owners of two-thirds (2/3) of the Lots shall be required to amend, modify or terminate this Declaration. Upon approval of the Owners, as set out above of said amended declaration (as evidenced by the President's or Vice-President's signature) the amended declaration shall be recorded in the Real Property

Records of Montgomery County, Texas, whereupon to the extent of any conflict with this Declaration, the amendment or the amended declaration shall control. For purposes of this section, the approval of multiple Owners of a Lot may be reflected by the signature of any one Owner of such Lot. Notwithstanding anything contained herein to the contrary, the Association shall be entitled to use any combination of the following methods to obtain approval of the Owners for an amendment to the Declaration:

A. by written ballot, or electronic ballot as same may be established by the Board, that states the substance of the amendment and specifies the date by which a written or electronic ballot must be received to be counted;

B. at a meeting of the Members of the Association, if written notice of the meeting stating the purpose of the meeting is delivered to the Owners of the Lots; such notice may be hand-delivered to the Owners, sent via regular mail to the Owner's last known mailing address, as reflected in the Association's records, or via email to the Owner's email address as reflected in the Association's records;

C. by door-to-door circulation of a petition by the Association or a person authorized by the Association; and/or

D. by any other method permitted under this Declaration. Any limitation of amendment to the Declaration related to said Property shall not limit the rights of the Declarant pertaining to the Declaration as otherwise herein reserved. Particularly reserved to the Declarant, is the right and privilege of Declarant to designate the use and architectural restrictions applicable to any portion of the Properties, as provided in Article IX hereof; and such designation, or subsequent change of designation, shall not be deemed to adversely affect any substantive right of any existing Owner.

## ARTICLE XVII. ALTERNATE DISPUTE RESOLUTION

### A. Dispute Resolution

No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; or the Association.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

B. Outside Mediator

In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager ("P.C.A.M.") as certified by the Community Associations Institute, or a Certified Property Manager ("C.P.M.") as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in the Subdivision, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. The Board shall maintain a list of no less than five (5) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

C. Mediation is Not a Waiver

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.

D. Assessment Collection and Lien Foreclosure

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of assessments and/or the foreclosure of the Assessment Lien by the Association as set out in the Declaration.

E. Term

This Article XVII, Alternative Dispute Resolution, shall be in full force and effect for an initial period of three (3) years from the date of execution of this Declaration. However, this Article shall remain in full force and effect unless, at the first open meeting of the Association after such initial period, a majority of the Board of Directors votes to terminate the provisions of this Article XVII, Alternative Dispute Resolution.

**ARTICLE XVIII. OTHER OWNERS ASSOCIATIONS**

A. In General

Declarant may determine, in its sole discretion, that it is necessary or appropriate to have a portion of the Woodforest Subdivision administered by a condominium or non-condominium homeowners association which is separate and apart from the Association hereunder. For example, if the Declarant desires to subject a portion of the Property to a condominium regime, the Declarant will record a condominium declaration with respect to such portion of the Property which condominium declaration will provide for the creation of a non-profit corporation to administer and maintain the condominium property. Similarly, the Declarant may record a non-condominium declaration with respect to a particular portion of the Property which will provide for the creation of a non-profit corporation to administer and maintain such portions of the Property. By way of illustration and not limitation, the Declarant may create a separate owners association to administer a portion of the Property where the Lots or Tracts which are made part of the Property will require services which are quantitatively or qualitatively different than those which will be furnished by the Association hereunder. For purposes hereof, any separate declaration which is recorded against a portion of the Properties shall be referred to as a "Local Area Declaration" and the association which administers the real estate which is subject to the Local Area Declaration shall be referred to as a "Local Area Association."

B. Local Area Associations

It is intended that each Local Area Association shall operate independent of the Association hereunder. Thus, to the extent that a Local Area Association is granted the power and authority to maintain the Dwellings or portions of the Property which serve such Dwellings, the Association hereunder shall not be obligated to maintain such areas or furnish such services.

## ARTICLE XIX. GENERAL PROVISIONS

### A. Severability

The invalidity of any one or more of the provisions of this Declaration shall not affect the validity of the other provisions thereof.

### B. Compliance with Laws

At all times, each Owner shall comply with all applicable federal, state, county, and municipal laws, ordinances, rules, and regulations with respect to the use, occupancy, and condition of the Homesite or Tract and any improvements thereon. If any provision contained in this Declaration or any supplemental declaration or amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

### C. Gender and Number

The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof applicable either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

### D. Headlines

The titles and captions for this Declaration and the sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

### E. Governing Law

The provisions in this Declaration shall be governed by and enforced in accordance with the laws of the State of Texas. Any and all obligations performable hereunder are to be performed in Montgomery County, Texas.

### F. Fines for Violations

The Association may assess fines for violations of the dedicatory instruments or governing documents (as those terms are defined in the Texas Property Code, or any successor

statute thereof), other than non-payment or delinquency in assessments, in amounts to be set by the Board of Directors, which fines shall be secured by the continuing assessment lien set out in this Declaration.

G. Books and Records

The books, records and papers of the Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Member, for any proper purpose. The Certificate of Formation, By-Laws, and this Declaration shall likewise be available, upon written request, for inspection, by appointment during normal business hours by any Member at the office of the Association, for any proper purpose as set forth in the By-Laws.

H. Notices

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

I. Mergers

Upon a merger or consolidation of the Association with another association as provided in its Certificate of Formation, the Association's properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation or to a like organization or governmental agency. The surviving or consolidated association shall administer any restrictions together with any Declarations of Covenants, Conditions and Restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

J. Current Address and Occupants

Owners are required to notify the Association in writing of their current address if other than the physical address of the Lot, Homesite, or Tract at all times. If an Owner fails to notify the Association of their current address, the Association shall use the address of the Lot,

Homesite, or Tract as the current address. If Owner leases the property, he shall supply the name of the tenant present upon the execution of any lease.

K. Security

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT OR TRACT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT OR TRACT AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING, OR OWNER OR USER OF AN IMPROVEMENT, AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND IMPROVEMENTS AND TO THE CONTENTS OF DWELLINGS AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS

RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

L. Service Mark

Declarant is the prior and exclusive owner and proprietor of, and reserves all rights with respect to the service mark for Woodforest ("Service Mark"). Unless and until a written license agreement has been sought and obtained from Declarant (and in this connection Declarant may withhold consent in its sole and absolute discretion), no person or entity may at any time and/or for any reason whatsoever, use, depict, draw, demonstrate, reproduce, infringe, copy or resemble, directly or indirectly, the Service Mark.

M. View Impairment

Neither the Declarant, nor the Association, guarantee or represent that any view over and across the Lots, Tracts, Common Areas, reserves or open space within the Subdivision will be preserved without impairment. The Declarant and the Association shall have no obligation to relocate, prune, or thin trees or shrubs on the Common Area. The Association shall have the right to add trees and other landscaping to the Common Area. There shall be no express or implied easements for view purposes or for the passage of light and air.

N. Use of Woodforest Amenities

The Declarant shall have the unilateral right to enter into use agreements with other owners associations whereby owners within the other communities may have the right to use the Woodforest amenities in exchange for payment of a user fee. The Association shall have the right, pursuant to any such use agreement, to charge the other owners association the appropriate user fee as set out in such use agreement. After the expiration of Class B Membership, the right retained in this Section N by the Declarant, shall automatically vest in the Association.

O. Video, Data and Communication Service Agreements

Subject to the approval of the Declarant for so long as Class B membership exists, the Association has or may hereafter enter into an agreement with a service provider for the provision of cable television and/or other communication services in order to obtain access to benefits and services for the benefit of Owners and Dwellings located in the Subdivision.

Payment for services and benefits provided pursuant to video, data and/or communication service agreements executed pursuant to this provision will be made from Assessments levied and collected by the Association pursuant to the authority granted in Article XIV, and such Assessments shall be supported by the Assessment lien created herein. While Owners are free to obtain the same or similar services from a provider of their choice, no Owner may avoid paying any portion of Assessments levied based on non-use of video, data or communication services provided and paid for by the Association with Assessments.

P. Occupants Bound

All provisions of the Dedicatory Instruments (as same is defined in the Texas Property Code) applicable to the Property and Owners, shall also apply to all residents, tenants, lessees, guests, and invitees of any Lot, Tract or Dwelling (collectively referred to herein as "Occupants"). Every Owner shall cause all Occupants to comply with the foregoing, and every Owner shall be responsible for all violations, losses, or damages caused by an Occupant, notwithstanding the fact that such Occupant is jointly and severally liable and may be sanctioned for any violation. In addition to all other remedies available to the Association in the event of a violation by an Occupant, the Association may require that the Occupant be removed from and not be allowed to return to the Subdivision and/or that any lease, agreement or permission given allowing the Occupant to be present be terminated.

Q. Transfer of Title; Resale Certificate; Certificate of Compliance

1. Transfer of Title: Any Owner, other than the Declarant, desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven (7) 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. Any Owner other than the Declarant desiring to sell or otherwise transfer title to his or her Tract shall give the Board at least seven (7) business days after the date of transfer, 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 person, other than the Declarant, transferring title shall continue to be jointly and severally responsible with the person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

Upon acceptance of title to a Lot, the new Owner of the Lot or Tract shall pay to the Association an administrative transfer fee to cover the administrative expenses associated with updating the Association's records, which transfer fee is supported by the Assessment lien created herein. Such fees shall be in such amount as the Board may reasonably determine necessary to cover its costs, including but not limited to, and fees charged by a management company retained by the Association for updating its records.

2. Resale Certificate: No Owner, other than the Declarant, shall transfer title to a Lot or Tract, together with the improvements thereon, unless and until he or she has requested and obtained a resale certificate signed by a representative of the Association as described in Section 207.003(b) of the Texas Property Code, or its successor statute ("Resale Certificate") indicating, in addition to all other matters described in Section 207.0003(b), that, as of the date of such Resale Certificate: (i) all Assessments (or installments thereof) and other charges against the Lot or Tract due and payable through the date of the Resale Certificate have been paid; and (ii) there are no violations of the governing documents existing on the Lot or Tract that have not either been cured or waived in writing by the Association.

The Association shall deliver a Resale Certificate, along with a current copy of the governing documents, within ten (10) business days after the Association's receipt of a written request from an Owner or Owner's agent, or a title insurance company acting on behalf of the Owner. If the Resale Certificate indicates that there are known conditions on the Lot or Tract that violate the governing documents, or that there are amounts due and unpaid to the Association on the account of the Lot or Tract, the Owner shall cure any such violations and pay any such amounts prior to transfer of title and, upon doing so, may request an update to the Resale Certificate to reflect such action.

The Association may charge a reasonable fee to prepare, assemble, copy, and deliver a Resale Certificate and accompanying information and any update to a Resale Certificate, which charge is supported by the Assessment lien created herein.

3. Certificate of Compliance: No Owner, other than the Declarant, shall transfer title to a Lot or Tract, together with the improvements thereon, unless and until he or she has requested and obtained a Certificate of Compliance ("Certificate of Compliance") signed by a

representative of the Association indicating that the Dwelling, as visible from the street, appears to have been built according to the plans submitted to and approved by the ARC, and identifies any Deed Restriction Violations currently existing on the Lot or Tract. The Association may charge a reasonable fee to prepare, assemble, copy, and deliver a Certificate of Compliance and accompanying information and any update to a Certificate of Compliance, which charge is supported by the Assessment lien created herein. The Association shall deliver a Certificate of Compliance, within ten (10) business days after the Association's receipt of a written request from an Owner or Owner's agent, or a title insurance company acting on behalf of the Owner.

R. Rebate of Fees

The Association shall have the authority to credit to an Owner's Assessment account a pro-rata portion of a rebate it receives from a municipality, for a particular service, when the cost for that service is paid by the Owners as part of the Annual Assessment, when such services are being provided to all or a portion of the Property by a private vendor if/as/when the cost for such services are fully or partially offset and rebated by the municipality. By way of example and not limitation, if Montgomery County rebates to the Association a per Lot amount for trash pickup, and the Association has paid a private vendor for trash service, the Association may credit an Owner's Assessment account with a prorated portion of the rebate received from Montgomery County.

S. Master Plan

"Master Plan" means the land use plan for the development of Woodforest, if any, prepared by or at the request of Declarant, as it may be amended by Declarant in its sole and absolute discretion, from time to time, which plan includes the Property encumbered by this Declaration. Said Master Plan may include all, none, or a portion of property owned by Declarant, which Declarant may, without the obligation to do so, from time to time subject to this Declaration by a subsequently recorded written document. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property owned by Declarant from the Master Plan bar its later annexation in accordance with this Declaration. Additionally, any use indicated on the Master Plan is tentative and subject to change by the Declarant without notice to the Owners.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 8<sup>th</sup> day of September, 2008.

**DECLARANT:**

WOODFOREST DEVELOPMENT, INC., a Texas corporation

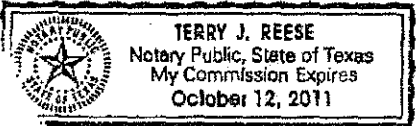
By: *Virgil L. Yoakum*  
Print Name: Virgil L. Yoakum  
Print Title: V.P. & General Manager

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

BEFORE ME, the undersigned authority, on this day personally appeared Virgil L. Yoakum, the V.P. & General Manager of Woodforest Development, Inc., known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 8<sup>th</sup> day of September 2008.

*Terry J. Reese*  
Notary Public - State of Texas



IN WITNESS WHEREOF, the undersigned Woodforest Owner joins this Declaration this 8<sup>th</sup> day of September, 2008, to witness its acceptance of the covenants, conditions and restrictions placed on the Property.

**WOODFOREST OWNER:**

WOODFOREST PARTNERS, L.P. a Texas limited partnership

By: Woodforest GP, L.L.C., its general partner

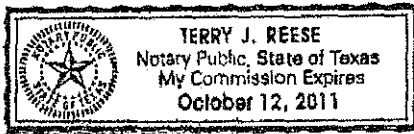
By: Virgil L. Yeakum  
Print Name: Virgil L. Yeakum  
Print Title: V.P. & General Manager

THE STATE OF TEXAS §

COUNTY OF Norris §

BEFORE ME, the undersigned authority, on this day personally appeared Virgil Yeakum, the V.P. & General Manager of Woodforest GP, L.L.C a Texas corporation, the general partner of Woodforest Partners, L.P., known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 8<sup>th</sup> day of September 2008.



Terry J. Reese  
Notary Public - State of Texas

