

Declaration
of
Covenants, Conditions, And Restrictions
For
Walker's Mark

That Whereas, Declarant is the owner of that certain real property in Harris County, Texas, described in Exhibit "A" attached hereto and made a part hereof for all purposes (hereinafter call "the existing Property"), subject to the liens, encumbrances, restrictions and other matters of whatsoever nature referred to in Exhibit B attached hereto and hereby made a part hereof;

Whereas, Declarant desires to provide for the preservation if the valuables and amenities in the community and for the maintenance of parks and other common facilities to be developed on the existing property and such additions as may hereafter be made thereto (as provided in Article II);

Whereas, Declarant desires to assure all owners of Assessment Units (hereafter defined) within the existing property and such additions as may hereafter be made thereto that open space will continuously be preserved for the benefit of each such owner and that provision shall be made for the security of persons and property;

Whereas, Declarant desires that all owners of Assessment Units within the existing property and such additions as may hereafter be made thereto be assured that property values, open space and common facilities will be maintained, and to that end Declarant has established a trust, as more fully provided herein, under which the Trustee is obligated to accomplish such goals and is correspondingly restricted in deviations from the purposes of said trust and this Declaration;

Whereas, Declarant desires to construct or to cause to be constructed on the Existing Property, and such additions thereto as may hereafter be made, dwellings or buildings containing dwelling units intended for single-family residential purposes;

Whereas, to accomplish the objectives set forth hereinabove, Declarant desires to subject the Existing Property, together with such additions as may hereafter be made thereto to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

Now therefore, Declarant hereby declares that the existing property, and such additions thereto as may hereafter

be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the following easements, restrictions, conditions, charges and liens (hereinafter sometimes called “the covenants and restrictions”), which easements, restrictions, covenants, conditions, charges and liens shall be binding on all parties having or acquiring any right, title or interest, whether legal or equitable, in the properties or any part thereof, and shall inure to the benefit of each owner thereof.

Article I

DEFINITIONS

Section 1 “Assessed Valuation” shall mean and refer to the replacement cost of an Assessment Unit. The Assessed Valuation with respect to any calendar year shall be the replacement cost determined by the Trustee as of October 1 of the next previous calendar year.

Section 2 “Assessment Unit” shall mean and refer both to (i) a building where the building does not contain Dwelling Units, and (ii) a Dwelling Unit and the undivided interest in the Building Common Elements (exclusive of the Building Site) appurtenant to such dwelling Unit where the Building does contain Units.

Section 3 “Association” shall mean and refer to Walker’s Mark Community Association, Inc., its successors and assigns.

Section 4 “Building “ shall mean and refer to the principal structure constructed by Declarant upon a Building site.

Section 5 “Building Common Elements” shall mean all of the particular Building designated as a Building which may contain Dwelling Units, except for the Dwelling Units in said Building, and shall include the Building Site upon which said Building is situated, and, without limiting the generality of the foregoing, shall include the following:

- (1) All foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communication ways:
- (2) All compartments or installations of services to the Building such as power, light, gas, cold and hot water, refrigeration, central air conditioning and central heating, reservoirs, water tanks and pumps, and the like;
- (3) In general, all devices or installments existing for common use and all other elements of the Building desirable or rationally of common use or necessary to the existence, upkeep and safety of the Building.

Section 6 “Building Site” shall mean and refer to any of the 26 building sites described in Exhibit C attached hereto and made a part hereof (which do not include the Common Area), or any of the building sites on any additions to the Existing Property as may hereafter be made pursuant to Article II hereof, on which there is or will be constructed a Building.

Section 7 “Common Area” shall mean all real property conveyed to the Trustee by the Trust Agreement executed by Declarant in connection with additions to the Existing Property as may hereafter be made pursuant to Article II hereof and held by the Trustee for the benefit and for common use and enjoyment of the Owners.

Section 8 “Construction Period” shall mean that period of time from the date hereof until all Assessment Units within the properties are conveyed to Owners other than Declarant and construction of Buildings on building sites has been completed; provided, however, that the construction Period as defined immediately preceding shall be terminated thirty (30) days after written from Declarant to Trustee of Declarant’s intention to terminate the construction period.

Section 9 “Declarant” shall mean and refer to Greenmark Incorporated, a Texas corporation, its successors

and assigns (i) if such successors or assigns should acquire more than one undeveloped building site from the Declarant for the purpose of development, and (ii) if such successors or assigns are designated in writing by Greenmark Incorporated, as a successor or assign of the rights of Greenmark Incorporated, set forth herein.

Section 10 “Dwelling Unit” shall mean an enclosed space consisting of one or more rooms occupying all of a floor or floors in a building, which enclosed space is not owned in common with Owners of other Dwelling Units in the building. Each dwelling unit shall be described and identified by a number and a letter or letters, the number referring to the number of the building site, and the letter or letters referring to the number of the building site, and the letter or letters referring to the floor or floors occupied by the Dwelling Unit, with the letter “A” referring to the first floor, the letter “B” referring to the second floor, and so on. For example, a Dwelling Unit occupying the second and third floors of the Building situated on Building Site No. 14-3C.” The only Buildings which may contain Dwelling Units shall be those Buildings so designated by Declarant in the deed conveying the Building or a Dwelling Unit in such Building to an Owner other than Declarant. The boundaries of each Dwelling unit shall be and are the interior surfaces of the perimeter walls, floor, ceilings and the exterior surfaces of balconies

and terraces; and a Dwelling Unit includes both the portion of the Building so described and the air space so encompasses, excepting Building Common Elements.

Section 11 “Owner” shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Assessment Unit which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation. The owner of a building where the building does not contain Dwelling Units shall also own the building site upon which the building is situated, and the owner of dwelling unit shall also own an undivided interest in the building common elements (including the building site) equal to a fraction, the numerator of which shall be (1), and the denominator of which shall be the total number of dwelling units in the building; provided, however, that any Owner, including Declarant, may sell, convey or lease such Owner’s building site, or interest therein, as the case may be, separately and apart from such Owner’s Assessment Unit.

Section 12 “Properties” shall mean and refer to the existing property and such additions thereto as may hereafter be made pursuant to Article II hereof.

Section 13 “Trust Agreement” shall mean and refer to that Trust Agreement of even date herewith between

Declarant and Texas Commerce Band National Association, as Trustee, to which a description of the Existing Property is attached as Exhibit A.

Section 14 “Trustee” shall mean and refer to the trustee under the trust agreement, its successors and assigns. The trustee shall hold the common area for the benefit, common use and enjoyment of the owners and shall perform its duties as provided herein and authorized by the Trust Agreement.

ARTICLE II

Annexation of Additional Properties

Section 1. Additions in Accordance with a General Plan of Development. Declarant shall have the right, without the consent of any other Owner, to bring within the scheme of this Declaration additional properties in future stages of the development, provided that such additions are in accord with a General Plan of Development prepared prior to the sale of any Assessment Unit and made known to every purchaser prior to such sale.

Such General Plan of Development shall show any proposed additions to the Existing Property and contain: (1) a general indication of size and location of additional development stages and proposed land uses in each; (2) the approximate size and location of common properties proposed for each stage; (3) the general nature of proposed common

facilities and improvements; and (4) a statement that the proposed additions, if made, will become subject to assessment. The general plan shall not bind Declarant to make the proposed additions or to adhere to the plan in any subsequent development of the land shown thereon.

The additions authorized under this and the succeeding section shall be made by filing of record: (a) a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall (i) extend the scheme of the covenants and restrictions of this Declaration to such property and (ii) provide that the percentage equitable interests in the common area of the owners immediately prior to the filing of such supplementary declaration shall be equal to the number of assessment Units owned by such owner divided by the total number of assessment units in the properties; and (b) a supplementary trust agreement which shall convey to the trustee all of the area within such additions (except for the building sites therein) to be held by the trustee in accordance with the trust agreement.

Such supplementary declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this declaration as may be necessary to reflect the different character, if any, of the

added properties. In no event, however, shall such supplementary declaration revoke, modify or add to the covenants established by this declaration within the existing property.

Section 2. Mergers Upon a merger or consolidation of the association with another association as provided in its articles of incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association will be subject to the covenants and restrictions established by this declaration within the existing property together with the covenants and restrictions established upon any other properties and other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this declaration within the existing property except as hereinafter.

Article III

Membership

Every person or entity who is a record owner of a fee or undivided fee interest in any assessment unit which is subject by covenants of record to assessment by the

Trustee, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separate from ownership of any assessment unit which is subject to assessment by the trustee. Ownership of such assessment unit shall be the sole qualification for membership.

ARTICLE IV

Section 1. Voting Rights. The Association shall have two classes of voting membership:

Class A. Except as provided under “Class B” below, each Owner as defined in Article I shall be a Class A member. Each Class A member shall be entitled to one vote for each assessment unit in which he holds the full fee interest. When the full fee interest in any assessment unit is held by more than one person, all such persons shall members, and the vote for such assessment unit shall be exercised as the, among themselves determine, but in no event shall more than one vote be cast with respect to any assessment unit.

Class B. The class B member(s) shall be declarant. The class B member(s) shall be entitled to three (3) votes for each assessment unit in which it holds the full fee interest, provided that the Class B membership shall cease upon termination of the construction period.

Section 2 Suspension of Voting Rights. No owner may exercise any vote hereunder if such owner is delinquent on the payment of any assessment hereunder on such owner's assessment unit.

Article V

Property Rights in Common Area

Section 1. Member's and Tenants' Beneficial Interest of Enjoyment:

Every member in residence, every resident tenant of a member and the Declarant shall have a beneficial interest of use and enjoyment in and to the common area and such interest shall be appurtenant to and shall pass with the title to every assessment unit, subject to the following provisions:

- (a) The right of the Trustee to publish rules and regulations governing use of the common area and the improvements and facilities located thereon, and to establish penalties for infractions thereof;
- (b) The right of the trustee to charge reasonable admission, rental and other fees for the use of any facility situated upon the common area;
- (c) Without limiting the generality of the foregoing, the right of trustee, in the exercise of its judgment, to charge a particular group or class of

persons reasonable fees for the use of facilities within the common area without charging or imposing such fees upon all persons permitted to use such facilities;

(d) The right of the Trustee, in accordance with the trust agreement, to borrow money for the purpose of improving the common area and facilities and in aid thereof to mortgage said property; provided, however, the rights of any such mortgagee in said properties in said properties shall be subordinate to the rights of the owners hereunder and in no event shall any such mortgagee have the right to terminate the trust established by the trust agreement;

(e) The right of resident owners or occupants of dwelling within the area covered by the general plan of development, but not within the properties, and their guest by the General Plan of dwellings within the area covered by the general plan of development, but not within the properties, and their guests, to use the common area of the properties (together with all facilities now or hereafter located thereon), regardless of whether such area is developed in accordance with the general plan of development;

(f) The right and duty of the trustee to suspend the voting and right to use of the recreational facilities by a member for (i) any period during which any assessment against his assessment unit remains unpaid, and for (ii) a period not to exceed thirty (30)

days for any infraction of its published rules and regulations;

- (g) (i) The right of declarant during the construction period to dedicate or transfer all or any part of the common area to any public agency, authority or utility, provided such dedication or transfer is in accordance with the general plan of development; and (ii) The right of the trustee after the construction period to dedicate or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. Except as provided in Section 2 of Article XI hereof, no such dedication or transfer after the construction period shall be effective unless an instrument signed by the members entitled to cast two thirds of the aggregate of the votes of the class a membership and Class A membership and Class B Membership (if any) has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more the fifty (50) days in advance of any action taker; provided, however, that as used herein the right of the trustee to dedicate or transfer part of the common area shall not include the right to subdivide or otherwise permit construction or development of buildings or other improvements for sale or commercial use;

- (h) The right of the trustee to adopt, implement and maintain a private security system for the properties consistent with applicable laws;
- (i) The right of the trustee to establish rules and regulations governing traffic on the private and driveways within the common area and to establish sanctions for any violations of such rules and regulation;
- (j) The right of the trustee to regulate noise within the properties, including, without limitation, the right of the trustee to require mufflers on engines or to prohibit the use devices producing excessive noise;
- (k) The right of the trustee to control the visual attractiveness of the properties, including without limitation, the right to require owners to eliminate objects with are visible from the common area and which, in the trustee's judgment, detract from the visual attractiveness of the properties;
- (l) The right of the trustee to barricade private streets within the properties, so long as no owner is denied access to such owner's assessment unit.

Section 2. Delegation of Use. Any Assessment Unit or Units may be leased to third parties by the owner or owners thereof; provided, however, that no Class A member shall own more than two (2) Assessment Units. Where the owner of an assessment unit leases such assessment unit to a tenant, all rights of use and enjoyment to the common area appurtenant to such assessment unit shall be vested exclusively in such tenant.

Section 3. Title to the Common Area. By execution and delivery of the Trust Agreement, the Declarant has conveyed fee simple title to the Common Area to the Trustee, in trust for the benefit and use of the owners. As a right running with the real property and subject to the provisions of Section 1 of the Article V, ownership of each Assessment Unit shall entail the use, benefit and enjoyment of all of the Common Area, including, but not limited to, walks, pavements, driveways, parking areas, entrances and exits owned by the trustee, and there shall always be access by both pedestrians and vehicles to and from each Assessment Unit (or designated private parking space with respect to vehicles) to a street dedicated to public use with hindrance of such communication ways by the trustee and/or owners. The trustee shall hold legal title to the common area in severalty pursuant to the trust agreement.

ARTICLE VI

COVENANTS FOR MAINTANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Assessment Unit owned within the Properties, hereby covenants, and each owner of any assessment unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant, to pay to the trustee: (1) annual assessments of charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments (together with such interest thereon, cost of collection thereof and reasonable attorney's fees, as hereinafter provided), shall be a charge on the Assessment unit and shall be a continuing lien thereon. Each such assessment, together with such interest, cost, and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the trustee shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and in particular

for the improvement, maintenance and preservation of the properties, services, and facilities devoted to said purposes and related to the use and enjoyment of the common area, and of the buildings situated upon the properties. Such uses may include, but are not limited to, the cost to the trustee of the following: all insurance, repair, replacement, and maintenance of the common area; fire, extended coverage and liability insurance for the buildings; maintenance of the exteriors of the dwelling units or buildings as may from time to time be authorized by the trustee; construction of other facilities; mowing grass, caring for the grounds, landscaping, caring for the swimming pools, tennis courts, recreational buildings, including their roofs; garbage pickup; pest control; streets; outdoor lighting; security service for the property and buildings; water and sewer service furnished to the buildings by or through the trustee; discharge of any liens on the common area; any assessments or charges upon the properties, or any portion thereof, established by any instrument of record at the time this declaration is filed for record; and other charges required by this declaration of covenants, conditions, and restrictions or other charges that the trustee is authorized to incur which the trustee shall determine to be necessary or desirable to benefit the owners, including the acquisition

of land and improvements located outside of the properties and the establishment and maintenance of a reserve for repair, maintenance, and other charges as specified herein.

Section 3 Basis and Maximum of Annual Assessments.

(a) The maximum annual assessment rate for any assessment unit owned by an owner other than declarant shall be \$1.75 per \$100.00 of Assessed Valuation, and the maximum annual assessment rate for any assessment unit owned by declarant shall be \$.35 per \$100.00 of Assessed Valuation.

(b) The maximum annual assessment rate may be increased by the trustee at any time and from time to time, provided that any such change shall have the assent of two thirds (2/3) of the aggregate votes of both classes of members who are voting in person or proxy, at a meeting duly called for the purpose of increasing the maximum annual assessment, written notice of which shall be sent to all members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting.

(c) After consideration of current maintenance costs and future needs of the members and the properties, the trustee shall levy the annual assessment on each assessment unit.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the trustee may levy in any calendar year, a special

assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the aggregate of the votes of both classes of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days not more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Quorum for any action authorized under sections 3 and 4. At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting of members or of proxies entitled to cast sixty percent (60 %) of the aggregate of the votes of both classes of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 3 and 4, and the required quorum at any such subsequent meetings shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments on each and every Assessment Unit shall be such an amount so that the ration of the

annual assessment for such assessment unit shall be the same for all assessments units, and annual and special assessments may be collected, in the discretion of the trustee, on a monthly basis, i.e. 1/12th of the annual assessments on each Assessment unit each month, or annually in advance.

Section 7. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to all Assessment Units on the first day of the month following the conveyance of the first assessment unit to an owner other than declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The trustee shall fix the amount of the annual assessment against each assessment unit at least thirty (30) days in advance of each annual assessment period; provided, however, that the trustee shall have the right to adjust the annual assessment as long as any such adjustment does not exceed the maximum permitted hereunder with thirty (30) days written notice given to each owner. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the trustee and, unless otherwise provided or unless otherwise agreed by trustee, the trustee shall collect each month from the owner of each assessment unit 1/12th of the annual assessment for such assessment unit. The trustee shall, upon demand, at any time furnish a certificate in

writing signed by an officer of the trustee setting forth whether the assessments on a specified assessment unit have been paid. A reasonable charge may be made by the Trustee for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non- Payment of Assessments: Remedies of the Trustee. Any assessments which are not paid when due shall be delinquent. The trustee shall suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his assessment unit remains unpaid. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the at the maximum rate of interest permitted by law and such assessment and interest shall become a continuing lien on the assessment unit which shall bind such assessment unit (together with the building site or interest in the building site appurtenant thereto) in the hands of the then owner, his heirs, devisees, personal representative and assigns. The trustee may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the assessment unit, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed to an assessment unit, shall expressly vest

in the trustee or its agents the right and power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the trustee in a like manner as a mortgage or deed of trust lien on real property as provided in Article 3810 of the Texas Revised Civil Statutes, and such owner by acceptance of a deed to an assessment unit expressly grants to the trustee a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the trustee and shall be for the common benefit of all owners. The trustee acting on behalf of the owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same and to treat the proceeds of any such lease, mortgage or conveyance in the same manner as assessments hereunder. No owner may waive or otherwise escape liability for the assessments provided for herein by leasing his assessment unit or units, by non-use of the common area, or by abandonment of his assessment unit or units.

Section 9. Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages granted or created by the owner of any assessment unit to secure the

payment of monies advanced and used for the purpose of purchasing and/or improving such assessment unit. Sale or transfer of any assessment unit shall not affect the assessment lien; provided, however, the sale or transfer of any assessment unit pursuant to a foreclosure under such purchase-money or improvement mortgages shall extinguish the lien of such assessments as to payments thereof coming due prior to such sale or transfer. No sale or transfer shall relieve such assessment unit from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this declaration shall be exempt from the assessments created herein:

- (a) All properties dedicated to and accepted by a local public authority,
and
- (b) The common area.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Insurance.

- (a) The Trustee, or its duly authorized agent, shall have the authority to and shall obtain a broad form public liability policy covering all common area, and damage or injury caused by the negligence of the Trustee or any of its agents. The Trustee shall also obtain and maintain hazard insurance at replacement value for all the Buildings

(exclusive of any improvements, additions or betterments made to Buildings or Dwelling Units by the Owners) and all improvements and items of personal property in the common area held by the Trustee. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be common expenses payable out of assessments. All such insurance coverage shall be written in the name of the trustee and the Owners in accordance with the terms of this declaration, and the Owners will cooperate with the trustee by doing any and all such acts and things as may be necessary to effect such insurance. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, liability insurance, theft insurance, insurance on any interior improvements, additions, or betterments made by such Owner to his Building or Dwelling Unit, as the case may be, and other insurance covering personal property damage and loss.

- (b) In the event of damage or destruction by fire or other casualty to any Building, garage, storage area or other property covered by insurance carried and maintained by the trustee, the insurance proceeds shall be paid to the trustee (notwithstanding any provision to the contrary in any mortgage or mortgages covering any such property), and the trustee shall, to the extent the trustee receives the insurance proceeds, have the duty and obligation to repair

or rebuild such damaged or destroyed portions of the building, garage, and storage area in a good workmanlike manner in conformance with the original plans and specifications of said building or other property. The owners shall have the duty and obligation to sign any documents or do any things which may be reasonably necessary to enable the trustee to fulfill its obligation to collect and receive such insurance proceeds and to repair or rebuild such damaged property.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall (including, without limitation, patio walls and fences) which is built as a part of a building upon the properties and placed on the dividing line between building sites shall constitute a party wall, and, to the extent not inconsistent with the provisions of the Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The Owner of a building or dwelling unit, as the case may be, shall not cut through or make any penetration through a party wall for any purpose whatsoever without (i) the prior written consent of the adjoining owner affected by such penetration and (ii) the prior written consent of the

Declarant during the construction period and the trustee after the construction period, as appropriate.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in equal proportions.

Section 3. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to and run with land and shall pass to such owner's successors in title.

ARTICLE VIII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced or erected upon any building site after its purchase from declarant, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by either declarant or trustee, as appropriate, as to harmony of external design and location in relation to surrounding structures and topography. Until the end of the construction period for a particular phase (hereinafter defined), plans and specifications for proposed changes or alterations within such phase shall be submitted to declarant for approval or disapproval. From and after such time, plans and specifications shall be submitted for approval or disapproval by the trustee, or by an architectural

committee composed of three (3) or more representatives appointed by the trustee. In the event the appropriate approving authority (declarant during the construction period for a particular phase and trustee or its appointed representatives thereafter) fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, such plans and specifications will be deemed disapproved.

As used in the Article VIII, "Phase" shall mean and refer to the existing property and to any separate area within the properties, which separate area is brought within the scheme of the declaration by a particular supplementary declaration pursuant to Article II.

ARTICLE IX

EXTERIOR MAINTENANCE

In addition to maintenance upon the common area, the trustee (or its representative) shall have the right to enter any building site and/or assessment unit for the purpose of performing its duties hereunder and under the trust agreement and shall provide exterior maintenance upon each assessment unit which is subject to assessment hereunder as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior fence or wall surfaces and structures, exterior building surfaces (excluding glass, windows, light bulbs, awnings, door fixtures and hardware),

trees, shrubs and grass (except as otherwise provided in Section 15 of Article X hereof), outdoor lighting, walks, driveways, parking areas, and other exterior improvements. The necessity for exterior maintenance shall be determined solely by the trustee. Maintenance and repair of all other areas and items shall be the sole responsibility of the individual owner, unless the trustee shall determine that in trustee's discretion, maintenance, repair or care of other items or areas by trustee or its representative would be in the best interest of the owners.

The trustee shall have no responsibility or duty to maintain or repair building common elements except as otherwise specifically provided herein.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, and is not covered or paid for by insurance on such assessment unit, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such assessment unit is subject.

ARTICLE X

USE RESTRICTIONS

Section 1. All buildings or structures on the property shall be of new construction.

Section 2. Each Assessment Unit conveyed shall be designated by a separate legal description or designation

and shall constitute a freehold estate subject to the terms, conditions and provisions hereof.

Section 3. The Building Sites and Assessment Units shall be used only for single-family residential purposes, as a private residence, and no professional, business or commercial use shall be made of the same, or any portion thereof; provided, however that Declarant may use one or more building sites, or the building or buildings situated thereon, as sales offices and/or furnished models during the construction period, and further provided, that declarant may lease assessment units for single-family residential purposes during the construction period.

No Owner or resident shall use a building site or assessment unit in such a manner so as to endanger the health or disturb the reasonable enjoyment of any other owner or resident.

Any garage and/or any adjoining driveway area on any building site shall be used for the parking of operative vehicles only. Said garage and the adjoining driveway area shall not be used for a storage area for anything judged to be a nuisance by the trustee or its appointed representative. Garage doors shall be kept closed except while in use.

No drilling, digging, quarrying or mining operation of any sort shall be permitted on the building site.

No Owner may engage in any activity within the properties which has the effect of increasing premiums for any insurance carried by the trustee.

Section 4. No buildings other than buildings shall be constructed on the building sites.

Section 5. No building or structure shall be moved onto the building sites.

Section 6. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be permitted on any building site at any time; provided, however, that declarant or the trustee may erect temporary structures for use in construction with the construction of the buildings.

Section 7. No advertising signs (except on "For Sale" sign of not more than five square feet per assessment unit), billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on a building site.

Section 8. The foregoing covenants of the Article X shall not apply to the activities of the trustee or its appointed representatives. Declarant may maintain, while constructing and selling the assessment units, in or upon such portions of the properties as declarant determines, such facilities as in its sole discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model units and signs.

Section 9. no animals, livestock or poultry of any kind shall be raised, bred, or kept on any building site, except dogs, cats, or other common household pets (not to exceed a total of two (2) pets per assessment unit), provided that they are not kept, bred or maintained for any

commercial purposes. All permitted household pets shall be kept inside the assessment unit and enclosed patio area, if any, of such assessment unit at all times, except that pets may be taken to areas designated by the trustee (or declarant during the construction period) if such pets are and remain leashed at all times when outside and assessment unit.

Section 10. All rubbish, trash, or garbage from a building site shall be kept in areas designated for such purposes by the trustee, and shall be regularly removed from the building sites, and shall not be allowed to accumulate thereon.

Section 11. Outdoor drying of clothes shall not be permitted.

Section 12. Without prior written authorization of the trustee no television or radio antennas, or flagpoles of any sort shall be placed , allowed or maintained on any building or building site or any portion of the exterior of the improvements located on the properties, nor upon any structure situated upon the properties.

Section 13. All fixtures and equipment installed within a building, commencing at a point where the utility lines, popes, wires, conduit or systems enter the assessment unit of the owner, shall be maintained and kept in repair by the owner thereof. An Owner shall do no act for any work that will impair the structural soundness or integrity of

another assessment unit or impair any easement or hereditament, nor do any act not allow any condition to exist which will adversely affect the other assessment units or their owners.

Section 14. No vehicle other than vehicles owned by declarant shall be parked on streets or alleys. No vehicle, other than licensed, operable passenger cars or pickup trucks, shall be parked in driveways so as to be visible from the streets or so as to obstruct ingress and egress by owners, their families, guests, and invitees except for emergency purposes. For a period not to exceed forty-eight (48) hours, family, guests, and invitees of owners, may park their vehicles in the guest parking areas within the properties provided for such purpose. Guest parking areas are not intended for use by the owners for parking or storing boats, trailers, camping units, personal vehicles or anything judged to be a nuisance by the trustee, and the trustee may insure the proper use of said areas in such manner it deems necessary.

Section 15. Except in the individual patio area, if any appurtenant to an assessment unit, as designated by declarant for such assessment unit, no planting, transplanting or gardening shall be done, and no fences, hedges or walls shall be created or maintained upon said property, except as installed in accordance with the initial construction of the building or as approved by declarant during the construction period or trustee after said construction period. As used

in this Declaration, the term “patio” shall mean the private space enclosed by a fence or wall within a building site which is adjacent to an owner’s assessment unit and located entirely within such building site. All other area, whether or not within a building site, shall be deemed to be a part of the common area for all purposes, including without limitation, maintenance, care and regulation by the trustee. Maintenance, upkeep and repairs of any patio and the interior surfaces of any fences or walls enclosing any patio shall be the sole responsibility of the individual owner and not in any manner the responsibility of the trustee.

Section 16. Motorcycles, motorbikes, motor scooters or other similar vehicles shall not be operated within the properties except for the purpose of transportation directly from an assessment unit to a point outside the properties, or from a point outside the properties directly to an assessment unit, and may only be operated in streets and driveways.

ARTICLE XI

EASEMENTS

Section 1. Each building and building site and the property included in the common area shall be subject to an easement for encroachments created by construction, settling and over-hang of the structures built by declarant and/or trustee. A valid easement for said encroachments and

for the maintenance of same, so long as they stand, shall and does exist. Said easement shall not be considered an unlimited easement and the final decision as to the reasonableness of such easement shall rest with the declarant until such time as all assessment units are conveyed by declarant to owners, and thereafter such decision shall rest with the trustee.

Section 2. There is hereby created a blanket easement upon, across, over and under all of the properties for ingress and egress, installation, replacing, repairing, and maintaining utilities, including, but not limited to, water; sewer, telephone, electricity, gas and cable television. Also there is hereby created a blanket easement upon, across, over and under all of the properties for ingress and egress for the purpose of maintaining building exteriors and landscape, shrubs, and grass. By virtue of this easement, it shall be expressly permissible for the utility companies to affix and maintain pipes, wires, conduits, or other service lines on, above, across and under the roofs and exterior walls of the buildings. Notwithstanding anything to the contrary contained in this paragraph, no sewer, electrical lines, waterlines, or other utilities may be installed or relocated on the properties until approved by the trustee thereafter; provided, however that no approval of any owner other than

Declarant shall be required. In the event that any utility company furnishing a service covered by the general easement herein provided requests a specific easement on the Properties by separate recordable instrument, the Declarant during the construction period and the trustee thereafter, without the joiner or consent of any owner other than Declarant, shall have the right to grant such easement on said property without conflicting with the terms hereof.

Section 3.

(a) In the event an underground electric distribution system is installed, the trustee shall, at its cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the electric company's metering on each structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each assessment unit. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition the trustee shall, at its cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company

furnishing service) for the location and installation of the meter of such electric company for each structure. For so long a underground service is maintained, the electric service to each assessment unit shall be uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

(c) Should this Declaration be amended pursuant to Section 3 of Article XII hereof so that dwellings other than Buildings or Dwelling Units are permitted in the Properties, the electric company shall not be obligated to provide electric service to a Building Site where a dwelling of a different type is located unless (i) the Trustee has paid to the electric company an amount representing the excess in cost, for the Properties, of the underground distribution system over the cost of equivalent overhead facilities to serve the Properties, or (ii) the owner or owners of such Building Site, or the applicant for service, shall pay to the electric company the sum of (1) \$1.00 per front Building Site foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such Building Site over the cost of equivalent overhead facilities to serve such Building Site, plus (2) the cost of rearranging and adding any electric facilities serving such Building Site, which rearrangement and/or addition is determined by the electric company to be necessary.

Section 4. The Owners of the respective Assessment Units shall not be deemed to separately own pipes, wires, conduits, or other service lines running through their property which are utilized for or serve other Assessment Units, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Assessment Unit.

Section 5. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown by the instruments recorded in the office of the County Clerk of Harris County, Texas and by instruments that may hereafter be recorded in said office as provided in Section 2 of this Article XI above. Copies of these shall be kept on file by the Trustee. Right of use for ingress and egress shall be had at all times over any dedication easement, and for the installation, operation, maintenance, repair or removal of any utility, together with the right to remove any obstruction that may be placed in such easement, that would constitute interference with the use, maintenance, operation or installation of such utility.

Section 6. The Owner or Owners of each Building Site within the Properties shall have the exclusive right and easement to use the driveway connecting such Building Site with the street.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Trustee, the association, or any Owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Trustee, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Similarly, failure by the Trustee, the Association or by any Owner to enforce any one or more covenants or restrictions herein contained shall in no event be deemed a waiver of the right to enforce any other covenant or restriction.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions and all such other provisions shall remain in full force and effect.

Section 3. Term, Termination, and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to benefit of and be enforceable by the Trustee, the Association, or the Owner of any Assessment unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date

this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years; provided, however that in the event an instrument signed by the Trustee and by members entitled to cast not less than seventy-five percent (75%) of the aggregate of the votes of both classes of membership and declaring that this Declaration shall be terminated is filed for record in Harris County, Texas, at least one hundred twenty (120) days before the expiration of the initial thirty (30) year period or such 10-year period, as the case may be. The covenants and restrictions of this Declaration may be amended at any time by an instrument signed by the Trustee and by members entitled to cast not less than ninety percent (90%) of the aggregate of the votes of both classes of membership. Any amendment must be properly recorded in Harris County, Texas.

Section 4. Mergers and Consolidations. The Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of the aggregate of the votes of both classes of membership of the Association.

Section 5. Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

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