

DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS
THE VALLEY RANCH SECTOR 10, TRACTS 9 AND 10,
FIRST INSTALLMENT

This Declaration is made on the date hereinafter set forth by Fox & Jacobs, Inc., Nevada corporation, hereinafter called "Declarant".

R E C I T A L S:

The following facts exist:

A. Declarant is the owner of that certain property known as the Valley Ranch Sector 10, Tracts 9 and 10, First installment, an addition to the City of Irving, Dallas County, Texas and being more particularly described in exhibit "A" attached hereto and made a part hereof.

B. Such property is subject to the terms of the master Restrictions and the Residential Restrictions, as defined in Article I below.

C. Declarant desires to further restrict the above-described property as more particularly provided in these Covenants, Restrictions and Conditions in order to establish a uniform plan for the development, improvement and sale of the lots in the above-described property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of such lots.

NOW THEREFORE, Declarant does hereby adopt, establish and impose the following Restrictions, reservations, covenants and conditions upon the above-described property, which shall constitute covenants running with the title of such property and be binding upon and inure to the benefit of Declarant, its successors, assigns and each and all of such beneficiaries.

ARTICLE 1

DEFINITIONS

Section 1. "Properties shall mean and refer to all land described in Recital A., above which is subject to the reservations set forth herein, and "Subdivision" shall mean and refer to the properties as depicted on the subdivision Plat, as hereinafter defined.

Section 2. "Affected Lot" or "Affected Lots" shall mean and refer to the individual lots of land shown upon the Subdivision Plat, with the exception of any portion of the land shown on the Subdivision Plat which may be designated or with words of similar meaning and with the exception of the Common Access Easement parcels designated as lots A, B, C, D, E, F, G, and H on the Subdivision Plat.

Section 3. "Declarant" shall mean and refer to Fox & Jacobs, Inc. or its successors and assigns, including but not limited to, any person, firm corporation, partnership, association, trust or other legal entity, or any combination thereof, which acquires all or substantially all of the

properties then owned by Fox & Jacobs, Inc. (or subsequent successors in interest), together with its rights hereunder, by conveyance or assignment from Fox & Jacobs, Inc., or by judicial or non-judicial foreclosure, for the purpose of development and/ or construction of the properties.

Section 4. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Affected Lot but excluding those whose interest is held merely as security for the performance of an obligation.

Section 5. “Subdivision Plat” shall mean and refer to the map or plat of the Subdivision recorded in Volume 83228 of the Map and Plat Records of Dallas County, Texas, as amended from time to time.

Section 6. “Unit” shall mean and refer to a structure constructed on an Affected Lot for occupancy by one person or one family.

Section 7. “Lot Cluster” shall mean and refer to a group of Affected Lots having a common border with a particular Common Drive.

Section 8. “Common Areas” shall mean and refer collectively to “Common Maintenance Areas” and “Common Ownership Areas.”

Section 9. “Common Drive” shall mean and refer to any one of the areas designated as a Common Access Easement and as Lot A, B, C, D, E, F, G, or H on the Subdivision Plat.

Section 10. “Private Area” shall mean and refer to that portion of each Affected Lot (or areas which are a part of adjacent Affected Lots) on which a Unit is located or which are included within the lines of fences as constructed by Declarant or, in case of fences as described in Article III, Section 7(b)(ii) hereof, by the Owner, and which the Owner of such Affected Lot shall have the exclusive obligation to maintain and repair.

Section 11. “City” shall mean and refer to the City of Irving. “County shall mean and refer to Dallas County.

Section 12. “Association” shall mean and refer to the Common Maintenance Area Association, a Texas nonprofit corporation, its successors or assigns.

Section 13. “Courtyard Committee” shall have the meaning set forth in Article VIII.

Section 14. “HUD” shall mean and refer to the U.S. Department of Housing and Urban Development, acting through the Area Office having jurisdiction over the Association.


Section 15. “Common Ownership Areas” are those areas within the Subdivision, if any, title to which is or will be held by the Association.

Section 16. “Common Maintenance Areas” are those areas within the Subdivision other than Private Areas or Common Ownership Areas, including areas dedicated to the City.

Section 17. “Master Restrictions” shall mean and refer to the Master Declaration of Covenants, Conditions and Restrictions for The Valley Ranch recorded in Volume 83196, Page 0748 0851 of the Dallas County Deeds Records, affecting the Properties.

ARTICLE II

RESERVATIONS, EXCEPTIONS, DECLARATIONS, AND EASEMENTS

Section 1. Utility Easements. Declarant reserves the easements and right-of-way shown as utility easements on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines,  sewers, cable television or any other utility Declarant sees fit to install in, across or under the Properties. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Neither Declarant nor any utility company nor any authorized political subdivision using the easements herein referred to shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, trees or flowers or any other property of the Owner on the land covered by said easements. All such easements are reserved for the mutual use and accommodation of garbage collectors and all public utilities desiring to use same. Any public utility shall have the right to remove and keep all or part of any building, fences, trees shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its utility system on any easement strips, and any public utility shall, at all times have the right of egress and ingress to and from and upon said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or any part of its utility system without the necessity at any time of procuring the permission of anyone.

Section 2. Installation of Paving. Declarant reserves the right, during installation of paving of the streets as shown on the Subdivision Plat, to enter onto any of the Properties for the purpose of street excavation, including the removal of any trees, if necessary, whether or not the Properties have been conveyed to or contracted for sale to any other Owner.

Section 3. Title Subject to easements. It is expressly agreed and understood that the title conveyed by Declarant to any of the Properties shall be subject to any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph, telephone, or cable television purposes as pictured on the Subdivision Plat or as installed, as well as to the easements for other purposes described herein or shown on the Subdivision Plat and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by or under Declarant or any easement owner or any agents through, along, or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the properties. The right to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved.

Section 4. Access to Common Drives. Each owner of an Affected Lot shall have a nonexclusive easement (which is hereby reserved by Declarant in his behalf) for the purposes described in this Section upon, over and across the Common Drive bordering the Lot Cluster in which such Affected Lot is included. Such nonexclusive easement shall be for the purposes of (a) access to and from such Owner's property to and from a dedicated street and (b) the installation, maintenance and repair of utility and sewer services to such Owner's property (if any) located beneath the Common Drive. It is specifically provided that each Owner's entry upon the property affected by the easement herein reserved shall be made with due consideration for other Owners of Affected Lots within the Lot Cluster and without obstruction to the passage of others over the common Drive.

Section 5. Property Rights in Common Areas and Private Areas.

(a) Each Owner of an Affected Lot shall have a nonexclusive right and easement (which is hereby reserved by Declarant in his behalf) of enjoyment in and to the Common Maintenance Area located in and around the Lot Cluster in which such Owner's Affected Lot is included (but not in and to other Common Maintenance Areas in the Subdivision), which right shall be appurtenant to and shall pass with the title to such Unit. All owners shall have a nonexclusive right and easement (which is hereby reserved by Declarant in his behalf) of enjoyment in and to the Common Ownership Areas, if any, except that the Association shall have the authority to designate certain portions of the Common Ownership Areas for guest or recreational vehicle parking and to allocate parking spaces within such areas for the exclusive use of one or more Owners for periods and on terms reasonably established by the Association. The Association shall maintain all driveways originally installed in the Common Maintenance Areas by Declarant unless the members of the Courtyard Committee having jurisdiction over the Common Maintenance Area in which a particular driveway is located shall unanimously determine otherwise.

(b) Each Owner shall have an exclusive (except as provided hereinafter) right and easement (which is hereby reserved by Declarant in his behalf) of enjoyment in and to the Private Area immediately adjacent to such Owner's Unit, which right shall be appurtenant to and shall pass with the title to such Unit.

Section 6. Water, Sewer and Drainage. Declarant hereby reserves for itself the right to place connecting lines for all utility and sewer systems, including water, gas (if any) and sewer main connections, and drainage facilities on or under any Affected Lot for service to and drainage of such lot and other Affected Lots. An easement shall exist on any Affected Lot for such connecting lines and drainage facilities as the same are installed and Declarant hereby reserves an easement on any Affected Lot on which connecting lines are installed for their use and maintenance in favor of the Owner of any properly which is served by or drains into such lines provided that any entry upon the property on which the connecting lines are located shall be made with as little inconvenience to the Owner thereof a practical.

Section 7. Encroachments; Overhang Easement.

(a) Declarant hereby reserves for itself and each Owner an easement and right to overhang the adjacent Affected Lot with the roof of any Unit as any such roof is originally constructed or substantially repaired by necessity, but not otherwise.

(b) If any portion of any Unit or any carport now encroaches upon any other Affected Lot or the property of any Owner other than the Owner of such Unit, or if any Unit hereafter constructed by Declarant encroaches upon any other Affected Lot or the property of any Owner other than the Owner of such Unit, or if any such encroachment shall occur hereafter as a result of settling or shifting of the building, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the building shall stand. In the event any Unit shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings and then rebuilt, encroachment easements due to such rebuilding shall exist for such encroachments and maintenance thereof for so long as the building shall stand to the same extent and degree as such initial encroachments.

Section 8. Sight Easements. Declarant reserves the easements shown on the Subdivision Plat as sight easements for the benefit of Declarant, the Association, the City, and all Owners. No Owner of an Affected Lot on which a sight easement is located shall allow any soil, vegetation, improvement, fence, or any other object or material to exist on the portion of the Affected Lot covered by such sight easement which has an elevation exceeding by two feet or more the elevation of the top of the adjacent curb, excepting only single trunk trees pruned to a height of not more than seven feet above ground elevation and of such a size and so spaced that a visual obstruction representing a traffic hazard is not created. No parking of motor vehicles shall be permitted in areas covered by sight easements.

Section 9. Wall and Landscape Easement. Declarant reserves the five-foot wall and landscape easement depicted on the Subdivision Plat in favor of Declarant and maintain, repair, and replace, as necessary, a wall and landscaping materials within the area covered by such easement and shall have all rights of ingress, egress, and access across any of the Affected Lots necessary for such purpose.

Section 10. Access Easements For Maintenance. Declarant hereby reserves, created, and establishes in favor of the Owner of each Affected Lot identified as a Benefited Lot in the table below an access easement across, along, and over that five foot wide strip of land located on the Affected Lot identified as a Burdened Lot in the same row of the table below, which five foot wide strip of land is adjacent to such Benefited Lot and depicted as an access easement and covered by solid dark shading on the Subdivision Plat.

Benefited Lot

Lot 2, Block 1

Lot 3, Block 1

Lot 6, Block 1

Burdened Lot

Lot 3, Block 1

Lot 4, Block 1

Lot 5, Block 1

Lot 10, Block 1
Lot 11, Block 1
Lot 14, Block 1
Lot 15, Block 1
Lot 18, Block 1
Lot 19, Block 1
Lot 22, Block 1
Lot 23, Block 1
Lot 26, Block 1
Lot 27, Block 1
Lot 3, Block 2
Lot 4, Block 2
Lot 7, Block 2
Lot 8, Block 2
Lot 11, Block 2
Lot 12, Block 2
Lot 15, Block 2
Lot 16, Block 2
Lot 19, Block 2
Lot 20, Block 2
Lot 23, Block 2
Lot 24, Block 2
Lot 27, Block 2
Lot 28, Block 2

Whichever of Lot 4 or Lot 5 in Block 1 shall have constructed thereon by Declarant a Unit located closer to the common boundary of such lots than the Unit constructed by Declarant on the other lot.

Whichever of Lot 12 or Lot 13 in Block 1 shall have constructed Thereon by Declarant a Unit Located closer to the common Boundary of such lots than the Unit constructed by Declarant on the other lot.

Whichever of Lot 20 or Lot 21 in Block 1 shall have constructed Thereon by Declarant a Unit Located closer to the common Boundary of such lots than the

Lot 11, Block 1
Lot 12, Block 1
Lot 13, Block 1
Lot 14, Block 1
Lot 19, Block 1
Lot 20, Block 1
Lot 21, Block 1
Lot 22, Block 1
Lot 27, Block 1
Lot 28, Block 1
Lot 2, Block 2
Lot 3, Block 2
Lot 8, Block 2
Lot 9, Block 2
Lot 10, Block 2
Lot 11, Block 2
Lot 16, Block 2
Lot 17, Block 2
Lot 18, Block 2
Lot 19, Block 2
Lot 24, Block 25
Lot 25, Block 2
Lot 26, Block 2
Lot 27, Block 2

Whichever of Lot 4 or Lot 5 in Block 1 is not the Benefited Lot immediately opposite.

Whichever of Lot 12 or Lot 13 in Block 1 is not the Benefited Lot immediately opposite.

Whichever of Lot 20 or Lot 21 in Block 1 is not the Benefited Lot immediately opposite.

Unit constructed by Declarant on the other lot.

Whichever of Lot 28 or 29 in Block 1 shall have constructed Thereon by Declarant a Unit Located closer to the common Boundary of such lots than the Unit constructed by Declarant on the other lot.

Whichever of Lot 1 or 2 in Block 2 shall have constructed Thereon by Declarant a Unit Located closer to the common Boundary of such lots than the Unit constructed by Declarant on the other lot.

Whichever of Lot 9 or 10 in Block 2 shall have constructed Thereon by Declarant a Unit Located closer to the common Boundary of such lots than the Unit constructed by Declarant on the other lot.

Whichever of Lot 17 or 18 in Block 2 shall have constructed Thereon by Declarant a Unit Located closer to the common Boundary of such lots than the Unit constructed by Declarant on the other lot.

Whichever of Lot 25 or 26 in Block 2 shall have constructed Thereon by Declarant a Unit Located closer to the common Boundary of such lots than the Unit constructed by Declarant on the other lot.

Whichever of Lot 28 or Lot 29 in Block 1 is not the Benefited Lot immediately opposite.

Whichever of Lot 1 or Lot 2 in Block 2 is not the Benefited Lot immediately opposite.

Whichever of Lot 9 or Lot 10 in Block 2 is not the Benefited Lot immediately opposite.

Whichever of Lot 17 or Lot 18 in Block 2 is not the Benefited Lot immediately opposite.

Whichever of Lot 25 or Lot 26 in Block 2 is not the Benefited Lot immediately opposite.

Such easement shall be solely for the access, ingress and egress by the owner of the applicable Benefited Lot along, across, and over the portion of the of the related Burdened Lot

covered by such easement (the “Easement Parcel”) for the purpose of maintaining, repairing, and watering the foundation of, the improvements situated on such Benefited Lot and for the installation, maintenance, repair, and replacement of utility lines, cables, conduits, or pipes. The owner of a Burdened Lot shall not obstruct or in any way prevent the owner of the associated Benefited Lot from exercising his or their rights of ingress or egress over and upon the Easement Parcel for such purposes provided that any such use shall be made with the minimum inconvenience to the owner of the applicable Burdened Lot as practical and that no use of the Easement Parcel for utility purposes shall be made unless it is impractical to use the applicable Benefited Lot for such purposes.

ARTICLE III

USE RESTRICTIONS

Section 1. Land Use and Building Type. All Affected Lots shall be known, described and used for residential purposes only and no structure shall be erected, altered, placed, or permitted to remain on any Affected Lot other than one single family residence not to exceed two (2) stories in height. No Affected Lot shall be used for business or professional purpose of any kind or for any commercial or manufacturing purpose. No building of any kind or character shall ever be moved onto any Affected Lot, it being the intention that only new construction shall be placed and erected thereon.

Section 2. Dwelling Size. The main residential portion of each Unit shall have a minimum floor area equal to or greater than the applicable zoning requirements of the City, and the requirements of the Master Restrictions and the Residential Restrictions.

Section 3. Type of Construction, Materials, and Landscape.

(a) No Unit shall be erected on an Affected Lot of materials other than brick, stone, brick-veneer, stone veneer, stucco type material, or other masonry materials unless the above named materials constitute at least sixty percent (60%) of the total outside wall areas. Gables or other exterior areas above a height of the top of standard height first floor windows are excluded from this requirement.

(b) No fence or wall shall be erected, placed, or altered on any Affected Lot nearer to the lot lines established on the Subdivision Plat than the front building line of the main structure and no fence or wall shall exceed six (6) feet in height above ground level.

Section 4. Building Location. The Subdivision Plat shall be construed to comply with applicable zoning requirements (if the zoning laws establish any such minimum set-back requirement). Units shall in no event be constructed so as to interfere with any access or utility easement described herein.

Section 5. Minimum Lot Area. No Owner's Property shall be resubdivided.

Section 6. Annoyance or Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Properties. Nothing shall be done upon any Affected Lot which may be or become an annoyance or a nuisance to the neighborhood or an unreasonable interference with the privacy of any Owner.

Section 7. Temporary Structures.

(a) No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Affected Lot at any time as a residence, either temporarily or permanently; provided, however,

(i) Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may be necessary or convenient while selling Affected Lots or portions thereof, selling or construction Units and constructing other Improvements upon the Properties. Such facilities include, but are not limited to, sales and construction offices, storage areas, model units, signs, and portable toilet facilities.

(ii) Anything contained in these restrictions to the contrary notwithstanding, there shall be permitted on Affected Lots the use of a dog house, so long as said dog house is not of unreasonable size and is so placed on an Affected Lot so as not to be visible from the front street side of the buildings.

(b) Except as otherwise provided in paragraphs (i) and (ii) no truck, camper, motor home, trailer or vehicle of any type (whether or not operable) or boat (whether powered, sail or otherwise) may be parked, kept or stored on any Affected Lot (except in a garage) or in any street for more than thirty-six (36) hours during any seventy-two (72) hour period or parked, kept or stored at any time adjacent to the curb fronting the portion of the Common Drive between the courtyard portion thereof and the nearest dedicated street.

(i) A trailer, camper, operable vehicle, motor home or boat may be parked, kept or stored on any Affected Lot behind the back building line of the Unit. An "operable vehicle" shall be one in usable, running condition.

(ii) A trailer, camper, motor home or boat may be parked, kept or stored on any Affected Lot behind the front of the building line, provided that the Owner maintains a solid wooden fence with no gaps between the Unit and each of the side lot lines of the Affected Lot, said fence to shield from view from the front and side street the parked or stored trailer, camper, motor home or boat.

Section 8. Signs and Billboards. No signs, billboards, posters, or advertising devices of any character shall be erected, permitted, or maintained on any Affected Lot or Unit except one sign of not more than ten (10) square feet in surface area advertising the particular Owner's

Property on which the sign is situated for sale or rent. The right is reserved by Declarant to construct and maintain such signs, billboards or advertising devices as are customary in connection with the general sale of residential property.

Section 9. Oil and Mining Operations. No oil drilling or development operations, oil refining quarrying or mining operations of any kind shall be permitted upon or in any Affected Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Affected Lot. No derrick or other structure designed for use in boring for oil or natural gas or other minerals shall be erected, maintained or permitted upon any Affected Lot.

Section 10. Storage and Disposal of Garbage and Refuse. Owners shall abide by all rules promulgated by the Association and all the rules, regulations, and ordinances duly enacted by the City including all such ordinances as they relate to storage and disposal of garbage, rubbish, trash or refuse which ordinances, as and when enacted, are incorporated herein by reference. No Affected Lot shall be used or maintained as a dumping ground for rubbish or garbage. Trash, garbage or other waste materials shall not be kept except in sanitary receptacles constructed of metal, plastic or masonry materials with sanitary covers or lids or as otherwise required by the City. All equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. No Affected Lot shall be used for the open storage of any materials whatsoever which materials are visible from the street, except that new building materials used in the construction of improvements erected upon any Affected Lot may be placed upon such lot at the time construction is commenced and may be maintained thereon for a reasonable time, until the completion of the improvements, after which these materials shall either be removed from the Affected Lot or stored in a suitable enclosure on the Affected Lot.

Section 11. Visual Obstructions at the Intersections of Public Streets. No object, including vegetation, shall be permitted on any corner lot which either (i) obstructs reasonably safe and clear visibility of pedestrian or vehicular traffic through sight lines parallel to the ground surface at elevations between two feet (2') and six feet (6') above the roadways, or (ii) lies within a triangular area on any corner lot described by three points, two such points being at the edge of the paving abutting said corner lot and at the end of twenty-five feet (25') back along the curb on the intersecting streets abutting said corner lot, and the third point being the center of the corner curb abutting said lot.

Section 12. Antennae. No radio or television aerial wires or antennae shall be maintained on any portion of any Affected Lot forward of the front building line of said lot nor shall any free-standing antennae of any style be permitted to extend more than twenty (20) feet above the roof of the main residential structure on said lot. No Owner shall install or maintain radio or television aerial wires or antennae in airspace over an adjoining Affected Lot.

Section 13. Animals. No person owning any Affected Lot shall keep domestic animals of a kind ordinarily used for commercial purposes on his Property, and no person owning any Affected Lot shall keep any animals in numbers in excess of that which he may use for the purpose of companionship of the private family, it being the purpose and intention hereof to restrict the use of said property so that no person shall quarter on the premises horses, cows,

hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the community.

Section 14. Burning and Burned Houses. No person shall be permitted to burn anything on any Affected Lot outside the main residential building. In the event that any Unit has burned and is thereafter abandoned for at least thirty (30) days, Declarant shall have the right (but no obligation whatsoever), after ten (10) days written notice to the record owner of the residence, to cause the burned and abandoned Unit to be removed and the remains cleared, the expense of such removal and clearing to be charged to and paid by the record owner. In the event of such removal and clearing by Declarant, Declarant shall not be liable in trespass or for damages, expenses, costs or otherwise to Owner for such removal and clearing.

ARTICLE IV

MAINTENANCE, REAIRS AND IMPROVEMENTS OF PRIVATE AREAS

Section 1. Unit Exterior and Lot Maintenance. Each Owner shall maintain the Private Area associated with his Affected Lot, the fences bounding such Private Area, and the exterior of his Unit in an attractive manner and shall not permit the paint, roof, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas and other exterior portions of his Unit to deteriorate in an unattractive manner. The drying of clothes on front yards is prohibited and the owner of any Affected Lot at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Affected Lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen from public view the drying of clothes, yard equipment, and woodpiles or storage piles which are incident to the normal residential requirements of a typical family. In the event of default on the part of any Owner in observing the above requirements or any one of them, and the continuance of such default after ten (10) days written notice thereof, the Association shall, without liability to such Owner in trespass or otherwise, have the right (but no obligation whatsoever) to enter upon the Private Area of said Affected Lot or cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions so as to place the Private Area of said Affected Lot in a neat, attractive, healthful and sanitary condition and may render a statement of charge to the Owner of such Affected Lot for the cost of such work. Each Owner agrees by the purchase or occupation of his property to pay such statement immediately upon receipt thereof.

Section 2. Additions and Exterior Improvements. No Owner shall make any addition to, modification of or alteration of the exterior of his Unit, or change in the landscaping of his Affected Lot or any change in the color of any part of the exterior of his Unit or construct a new Unit or other structure on his Affected Lot unless such change has been approved in writing by the Architectural Control committee.

ARTICLE V

HOMEOWNERS ASSOCIATION

Section 1. Membership. Every Owner of an Affected Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Affected Lot which is subject to assessment. Every member shall have the right at all reasonable times during business hours to inspect the books of the Association.

Section 2. Funding. Subject to the terms of this Article V, the Declarant for each Affected Lot owned within the Properties hereby covenants, and each owner of any Affected Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Such assessment will remain effective for the full term (and extended term, if applicable) of the within covenants. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 3. Annual Assessment or Charge.

(a) Units Owned by Parties Other Than Declarant. Subject to the terms of this Article, each Affected Lot in the Subdivision is hereby subjected to an annual maintenance charge and assessment not to exceed \$40 per month or \$480 per Annum (unless such maximum shall be increased as provided in the Bylaws of the Association), for the purpose of creating a fund to be designated and know as the "maintenance fund," which maintenance charge and assessment will be paid by the Owner or Owners of each Affected Lot on which a Unit has been constructed within said Subdivision (and Affected Lots on which a Unit has been constructed within any area annexed under the jurisdiction of the Association) in advance in monthly, quarterly or annual installments, commencing as to all Affected Lots on which a completed Unit is then located on the first day of the month following the conveyance of the first Affected Lot by Declarant to an Owner and as to all other Affected Lots on the completion of a Unit thereon. The rate at which each Affected Lot on which a Unit is located will be assessed, and whether such assessment shall be payable monthly, quarterly or annually, will be determined annually by the Board of Directors of the Association at least thirty (30) days in advance of each annual assessment. Said rate and when same is payable may be adjusted from year to year by said Directors (or more often than annually, if the Board of Directors so requires) as the needs of the Subdivision may in the judgment of Directors require. The assessment for each Affected Lot on which a completed Unit is located shall be uniform except as

provided in subsection (b) of this paragraph. The due dates shall be established by the Board of Directors. The Association shall upon written demand and for a reasonable charge furnish a certificate signed by a officer of the Association setting forth whether the assessments on a specified Affected Lot have been paid.

(b) Units Owned by Declarant. Notwithstanding any term or provision of this Declaration to the contrary, the Board of Directors in its discretion may elect to charge and collect a fraction of the annual assessment levied on each Affected Lot on which a completed Unit is located owned by Declarant until the conveyance of such Affected Lot to an Owner, such fractional charge to be temporarily imposed for a period of sixty (60) days following the conveyance (the "First Sale") of the first Unit in the Subdivision to an Owner, provided that:

(i) no such temporary fractional charge shall be less than fifty percent (50%) of the assessment levied against Owners' Affected Lots;

(ii) if the Board of Directors temporarily assesses Declarant a reduced assessment, the Declarant may at any time thereafter (so long as it owns any Affected Lot) elect by notice in writing to the Board of Directors either to pay the full assessment for each of its Affected Lots on which a Unit is located, commencing sixty (60) days after the First Sale or, alternatively, to reimburse the Association for deficits, if any, arising out of operating costs exceeding the total operating funds available to the Association. Declarant's election may be made at any time, retroactively or prospectively, for any operating period of the Association. An election for a given operating period shall not bind Declarant for subsequent operating periods, provided that Declarant shall be bound to elect one of the alternative assessment methods set forth above for all operating periods after (60) days after the First Sale. Declarant's election shall be a valid and legally binding obligation of Declarant for the period stated in its notice.

(c) Purposes of Maintenance Fund. The Association shall establish a maintenance fund composed of Owner's regular assessments and Declarant's elected contributions and shall use the proceeds of such fund in providing for normal, recurring maintenance charges for the Common Areas for the use and benefit of all residents of the Subdivision. Such uses and benefits to be provided by the Association may include, by way of clarification and not limitation, any and all of the following: normal, recurring maintenance of the Common Maintenance Areas and Common Ownership Areas (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for existing landscaping) and the improvements to such Common Areas, such as sprinkler systems, provided that the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Areas; payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions and conditions affecting the property to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employment of policemen and watchmen; caring for vacant lots; and doing

any other thing or things necessary or desirable in the opinion of the Association to keep the Properties neat and in good order, or which is considered of general benefit to the Owners or occupants of the Properties, it being understood that the judgment of the Association in the expenditure of said funds and the determination of what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith. The Association shall, in addition, establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area. The fund shall be established and maintained out of regular annual assessments.

Section 4. Special Assessments for Working Capital Fund, Nonrecurring Maintenance and Capital Improvements. In addition to the annual assessments authorized above, the Association may levy:

(a) upon sale of the first Affected Lot by Declarant, a special assessment equal to two (2) month's estimated regular assessment which shall be due and payable within sixty (60) days after the date of the conveyance of the first Affected Lot by Declarant. The aggregate fund established by such special assessment shall be maintained in a segregated account, and shall be for the purpose of insuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board; and

(b) in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any nonrecurring maintenance, or the acquisition, construction, reconstruction, repair or replacement of a capital improvement upon any Common area, including fixtures and personal property related thereto, provided that any such assessment shall have been requested by the Courtyard Committee having jurisdiction over the Common Area to be improved and provided further that such assessment shall be levied on a pro rata basis against only the members of such Courtyard Committee. The Association shall not commingle the proceeds of such special assessments with the maintenance fund. Such proceeds shall be used solely and exclusively to fund the nonrecurring maintenance or improvements requested by the Courtyard Committee in question.

Section 5. Non-payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum, or at such other rate as may be established from time to time by the Association, but in no event to exceed the maximum rate permitted by applicable law. The Association may bring an action at law against the Owners personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his property.

Section 6. Subordinated Lien to Secure Payment. To secure the payment of the maintenance charge and assessment established hereby and to be levied on individual Affected Lots as above provided, there shall be reserved in each deed by which the Owner (the present

and any subsequent owners) shall convey such property, or any part thereof, a Vendor's Lien for the benefit of the Association, said lien to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to all liens, present and future, given, granted, and created by or at the instance and request of the Owner of any such Affected Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Affected Lot; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Affected Lot upon which there is an outstanding valid and subsisting first mortgage, lien, said beneficiary shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage lienholder by prepaid U.S. Registered Mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, said beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof. Sale or transfer of an Affected Lot shall not affect the assessment lien. However, the sale or transfer of any Affected Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Affected Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 7. Voting Rights. The Association shall have two (2) classes of voting membership:

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

(b) Class B. Class B members shall be Declarant who shall be entitled to three (3) votes for each Lot owned by it. The Class B membership shall cease and be converted to Class A membership one hundred twenty (120) days after the conveyance of the Affected Lot which causes the total votes outstanding in the Class A membership to equal the total votes outstanding in the Class B membership, or three (3) years after conveyance of the first Affected Lot by Declarant, whichever occurs earlier.

Section 8. Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all members, or delivered to their residences, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE VI

GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS FO THE ASSOCIATION

Section 1. Purpose of Maintenance Fund. The Board, for the benefit of the Owners, shall provide and shall pay for out of the maintenance fund provided for in Article V above the following:

- (a) Taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Ownership Areas rather than against the individual Owners.
- (b) Care and preservation of the Common Areas, and the furnishing and upkeep of any desired personal property for use in the Common Ownership Areas.
- (c) The services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board, provided that any contract for management of the Association shall be terminable by the Association, with no penalty, upon ninety (90) days prior written notice to the managing party, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager.
- (d) Legal and accounting services.
- (e) A policy or policies of insurance insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board of Directors, including a policy or policies of insurance as provided herein in Article IX.
- (f) Workmen's compensation insurance to the extent necessary to comply with any applicable laws.
- (g) Such fidelity bonds as may be required by the Bylaws or as the Board may determine to be advisable.
- (h) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments (including taxes or assessments assessed against an individual Owner) which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the enforcement of this Declaration.

Section 2. Powers and Duties of Board. The Board, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the bylaws of the Association:

- (a) To execute all declarations of ownership for tax assessment purposes with regard to the Common Ownership Areas on behalf of all Owners.
- (b) To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.
- (c) To enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.
- (d) To protect or defend the Common Ownership Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.
- (e) To make reasonable rules and regulations for the operation of the Common Areas and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Owners, or with respect to a rule applicable to less than all of the Common Areas, by the Owners in the portions affected (without limiting the generality of the foregoing language, the rule and regulations may provide for limitations on use of common recreational areas during certain periods by youthful persons, visitors or otherwise).
- (f) To make available for inspection by Owners within sixty (60) days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals.
- (g) To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.
- (h) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.
- (i) To delegate the duty to collect assessments provided for herein to pay for such service.

Section 3. Board Powers, Exclusive. The Board shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.

Section 4. Maintenance Contracts. The Board, on behalf of the Association, shall have full power and authority to contract with any Owner for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Establishment. There is hereby established an Architectural Control Committee for the Subdivision for the purposes set forth in this Declaration.

Section 2. Composition. Declarant shall have the right to designate the members of the Architectural Control Committee (the "Committee") so long as it owns any portion of the Properties. There shall be three (3) members of the Committee. After Declarant no longer owns any portion of the Properties, it shall no longer have any right to appoint members to the Committee. Thereafter, in the event of the resignation, continued absence, failure to function or death of any single member, the two members of the Committee remaining from time to time shall have full authority to designate the third member, or if there are fewer than two members remaining at any time (or if any two remaining members cannot agree on the appointment of the third member), the Committee vacancies shall be filled by popular vote of the Owners of the Affected Lots on persons nominated by any such Owner.

Section 3. Functions. No building, fence, wall, or other structure shall be commenced, erected, or maintained upon any Affected Lot, nor shall any exterior addition to, or change or alteration therein, be made, nor shall any landscaping of any Affected Lot be undertaken, 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, the Committee as to harmony of external design and location in relation to surrounding structures and topography. In the event that any plans and specifications are submitted to the Committee as provided herein, and the Committee shall fail either to approve or reject such plans and specifications for a period of fifteen (15) days following such submission, such failure shall be deemed to be approval by the Committee for all purposes.

ARTICLE VIII

COURTYARD COMMITTEES

Section 1. Establishment. There is hereby established a separate Courtyard Committee (referred to individually as the "Courtyard Committee") for each Lot Cluster in the Subdivision for the purposes set forth below with jurisdiction on the terms stated below over the Common Maintenance Area surrounding the Common Drive bordering such Lot Cluster.

Section 2. Composition. Declarant shall have the right to designate the members of each Courtyard Committee so long as it owns any Affected Lot subject to the jurisdiction of such Courtyard Committee. There shall be one committee member per Affected Lot within each Lot Cluster. Each Owner whose property is served by the Common Maintenance Area in question shall have the right to appoint a member to the Courtyard Committee for such Common Maintenance Area after Declarant no longer owns any Affected Lot adjoining such Common Maintenance Area.

Section 3. Functions.

(a) In general, the Courtyard Committees are established for the purposes of (i) determining the necessity for repairs or desirability of improvements to the Common Maintenance Area of such Lot Cluster, (ii) bearing the cost of any Common Maintenance Area improvements determined to be desirable, (iii) overseeing the planting, construction or installation of any such Common Maintenance Area improvements and (iv) performing such other duties with respect to the Common Maintenance Areas as the members of each Courtyard Committee may deem appropriate, to the extent such duties are not in conflict with those of the Association, and subject to the terms of this Declaration and the ordinances and regulations for the City.

(b) Recurring maintenance of Common Maintenance Area lawn, shrubbery, trees and other landscaping such as mowing, pruning, fertilizing and watering, shall be contracted for by the Association in accordance with Article V hereof. The Cost of all other maintenance of and repairs to either the Common Maintenance Area or Common Drive thereon, and improvements determined by a Courtyard Committee to be desirable, shall be borne on a pro rata basis by the members of the Courtyard Committee having jurisdiction over the Common Maintenance Area in question. Whenever a Courtyard Committee shall determine such repairs or landscape maintenance in the Common Maintenance Area subject to its jurisdiction are necessary or desirable, it shall notify the Association in writing. Subject to receipt of the proceeds of special assessments levied to fund such repairs or maintenance, the Association shall contract for and cause the same to go performed in accordance with Article V hereof.

Section 4. Meetings. Courtyard Committee meetings shall be held upon fifteen (15) days prior written notice by any member thereof, specifying the time and place of such proposed meeting. A quorum shall be composed of three-fourths or more of the members of the Courtyard Committee. Whenever action by a Courtyard Committee is called for herein, such action shall be deemed to be authorized and approved upon the affirmative vote of a majority of the members present composing a quorum at a committee meeting duly called in accordance with this section.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Term. Unless earlier terminated in accordance with this instrument, the foregoing building and use restrictions which are hereby made conditions subsequent running with the land shall remain in force and effect for thirty (30) years from the date of this instrument at which time the same shall be automatically extended for successive periods of ten (10) years unless a majority vote of the then property owners of the Affected Lots shall agree in writing to change said conditions and covenants in whole or in part.

Section 2. Adjacent Property.

(a) No obligation is created hereby with respect to property adjacent to or adjoining the Properties (disregarding discontinuities on account of public roadways) or of any larger tract of land owned by Declarant. While Declarant may subdivide other portions of its property or may subject same to a declaration such as this Declaration, the Declarant shall have no obligation to do so. Any Subdivision Plat or Declaration executed by Declarant with respect to any of its other property may be the same or similar or dissimilar to the Subdivision Plat covering the Properties or any part thereof, or to this Declaration.

(b) Lands adjacent to the Subdivision (disregarded discontinuities on account of public roadways) may hereafter be annexed into the jurisdiction of the Association in the manner hereinafter described. The Owners of Affected Lots in each future section so annexed as well as all Owners subject to the jurisdiction of the Association shall be entitled to the use and benefit of any Common Ownership Areas as are or may become subject to the jurisdiction of the Association as a result of such annexation and the facilities thereon shall be entitled to membership in the Association with all privileges appurtenant thereto, and shall be entitled to the use and benefit of the maintenance fund hereinafter set forth, provided that each future section must be annexed subject to an annual maintenance charge and assessment on a uniform, per Affected Lot basis equivalent to the maintenance charge imposed hereby. Such sections shall by recorded restrictions, be made subject to the jurisdiction of the Association, and shall have been accepted by resolution of the Board of Directors of the Association. While a Class B membership exists, approval of a proposed annexation of property by either (i) HUD (ii) Declarant or (iii) the vote of a two-thirds (2/3) majority of the Owners (but not both) shall be required to effect the annexation. After expiration of the Class B membership, approval by the vote of a two-thirds (2/3) majority of the Owners shall be required.

Section 3. Enforcement. If any person shall violate or attempt to violate any of the covenants herein, it shall be lawful for any Owner or any Owner of an Affected Lot annexed into the jurisdiction of the Association, including Declarant, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages for such violation.

Section 4. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

Section 5. Existing liens. Violation or failure to comply with the foregoing restrictions, covenants, and conditions shall in no way affect the validity of any mortgage, loan or bona fide lien which may, in good faith, be then existing on any Affected Lot.

Section 6. Amendment by Declarant. Declarant reserves the right in its sole discretion and without joinder of any Owner at any time so long as it maintains voting control of the Association, to amend, revise, or abolish any one or more of the foregoing restrictions by instrument duly executed and acknowledged by it as the developer and filed in the Deed Records of the County, provided that such instrument has been approved by HUD. Declarant reserves the

further right, without joinder of any Owner at any time, to amend, revise or abolish any one or more of the foregoing restrictions on behalf of the Association and the Owners by instrument duly executed and acknowledged by it as the developer and filed in the Deed Records of the County, so long as such action is for the purpose of complying with the reasonable requests of the Federal National Mortgage Association and/or HUD. Notwithstanding any term hereof to the contrary, no easements or other interests in any Owner's Affected Lot shall be created, amended, abolished or otherwise affected without the prior written consent of such Owner.

Section 7. Amendment by Association. The Association shall have the right at any time to amend the terms of these restrictions by a ~~75%~~two thirds vote of its members, determined by allocating votes as provided in Article V, Section 2 hereof. So long as Class B membership in the Association exists, however, no such Amendment shall become effective without the approval of HUD. No such amendment shall become effective in any event unless contained in a duly executed and acknowledged instrument filed in the Dallas County Deed Records.

Section 8. Exclusions. These restrictions shall not extend to or cover any portion of the Properties which is or may hereafter be designated or described on the Subdivision Plat with the terms "Not Platted" or "Reserve", or with words or terms of similar meaning. Moreover, these restrictions shall not extend to or cover any portion of the Properties upon which no private dwelling is constructed within five (5) years of the date hereof and which property is hereafter, at any time, re-zoned by any city government in which the property is or may be located with a classification other than single family residential.

Section 9. Conformity with Master Restrictions and Residential Restrictions. The provisions of this Declaration are in addition to and not in derogation of Master Restrictions and the Residential Restrictions. Accordingly, the Association is in addition to and separate from all associations established by the Master Restrictions and Residential Restrictions and the assessments provided herein are in addition to the assessments provided in the Master Restrictions and the Residential Restrictions. No provision hereof shall be construed to authorize or permit any action prohibited by the Master Restrictions or the Residential Restrictions.