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TUSCANY, SECTION ONE
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

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\$63.00

STATE OF TEXAS §
 §
 COUNTY OF HARRIS §

KNOW ALL PERSONS BY THESE PRESENTS:

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made effective as of the first day of July, 2000 by Toscano Partners, Ltd., a Texas limited partnership (hereinafter sometimes referred to as "Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of the land within Tuscany Section One, a subdivision of land in Harris County, Texas, according to the plat thereof recorded under Film Code No. 447006 in the Map Records of Harris County, Texas (all of such land so owned and the improvements now or hereafter situated thereon being hereinafter referred to as the "Property"); and

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WHEREAS, it is the desire and intention of Declarant to restrict said Property according to a common plan as to use, permissible construction, and common amenities so that all land within the Property shall benefit and each successive owner of all or a part of said land shall benefit by preserving the values and the character of said land; and

WHEREAS, Declarant desires to take advantage of the geographical features of the Property and proposes to establish a residential living environment which is dependent upon and in furtherance of aesthetic considerations in order to create a residential community having common areas, facilities and landscaping, and to provide for the maintenance, repair, operation and improvement of same; and, to this end, desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, to be binding upon each Lot (as herein defined) within the Property, and the owners of each Lot and which restrictions, covenants and conditions (if in conflict with) will also comply with the requirements of federal, state and local governmental authorities and the zoning and subdivision ordinances and regulations of Harris County, Texas; and

WHEREAS, Declarant has deemed it desirable, and in the best interests of the owners, residents and future residents of the Property, for the efficient preservation of the values and amenities in the Property and the maintenance, repair, operation and improvement of the common areas, facilities and landscaping, to create an entity to which would be delegated and assigned the powers of maintaining and administering same and enforcing these restrictions, covenants, easements, charges and liens, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused to be incorporated Tuscany Community Association, Inc., a Texas non-profit corporation, and has designated it as such entity; and

NOW, THEREFORE, Declarant, for and in consideration of, and expressly for the benefit of, and to bind, its successors in interest, does hereby agree and declare that the Property, including such additions thereto as may hereafter be made pursuant to Article I, Section 3 hereof, shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, which shall run with the land and shall be binding upon all parties having any right, title, or interest in or to the Property, or any part thereof, and their heirs, successors, representatives and assigns. The covenants, conditions, restrictions, easements, charges and liens hereinafter set forth are covenants running with the land at law as well as in equity.

ARTICLE I GENERAL

Section 1. Definitions. The following words, when used in this Declaration, unless the context shall prohibit, shall have the following meanings:

- a. "Area," when followed by a Roman numeral, shall mean and refer to a specific location which shall have been described and defined either in Section 2 of this Article I or in one of the Supplementary Declarations provided for in Section 3 of this Article I.
- b. "Association" shall mean and refer to Tuscan Community Association, Inc., a Texas non-profit corporation, which will have the power, duty and responsibility of maintaining and administering the Common Areas, Common Facilities, Common Personalty, and all Landscaping in the Common Areas, and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing the assessments and charges hereinafter prescribed.
- c. "Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot.
- d. "Common Areas" shall mean and refer to **areas of land owned**, leased or used by the Association, and/or easement areas for walls or fences, streets, entryways, access or walkways, recreational facilities, and other purposes benefitting the Members, including any improvements and landscaping located thereon, for the common use, enjoyment and benefit of the Members of the Association.
- e. "Common Facilities" shall mean and refer to the recreational buildings and appurtenances, fountains, entry systems, walls, fences, control facilities, parking areas, irrigation systems, lighting facilities, flagpoles, identification markers, playgrounds and appurtenances, owned, leased or used by the Association in fulfilling its duties and for the benefit of all Members of the Association or the like located within the Common Areas.

- f. "Common Personality" shall mean and refer to any and all items of personal property owned or leased by the Association for the benefit of all Members or used by the Association in fulfilling its functions and carrying out its duties and purposes hereunder.
- g. "Declarant" shall mean and refer to Toscano Partners, Ltd., a Texas limited partnership, and its successors and assigns provided that an assignee is designated in writing by Toscano Partners, Ltd., as an assignee of all, or part, of the rights of Declarant.
- h. "Landscaping" shall mean and refer to growing plants, including grass, plantings, vines, ground cover, trees, hedges, shrubs, flowers and the like located within the landscape easements, public rights of way or any area within or adjacent to the Property which the Board of Directors of the Association determines to be appurtenant to the benefit of the Association.
- i. "Lot" shall mean and refer to any parcel, plot or tract of land identified by a lot and block number as shown upon any recorded subdivision map, plat, replat, or revision of the Property, as said recorded subdivision maps or plats may be amended and revised from time to time.
- j. "Member" shall mean and refer to each Owner of a Lot or an undivided interest therein, who shall be a Member of the Association as provided in Article II hereof.
- k. "Occupant" shall mean and refer to any person occupying or otherwise using a Lot and/or any house or dwelling situated on such Lot (including lessees).
- l. "Owner" shall mean and refer to the owner of record (including Declarant), whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.
- m. "Property" shall mean and refer to the real property (including improvements) described in Section 2 of this Article I, and such additions thereto, as are subjected to this Declaration or any Supplementary Declaration under the provisions of Section 3 of this Article I.

Section 2. Property Subject to Declaration. The real property covered by this Declaration is all property in Tuscany Section One, a subdivision in Harris County, Texas, according to the plats of various sections thereof recorded under Film Code No. 447006 of the Map Records of Harris County, Texas. For purposes of this Declaration such real property is designated as Area I. All of the Property and any right, title or interest therein shall be owned, held, leased, sold, transferred and/or conveyed by Declarant, and any subsequent Owner of all or any part thereof,

subject to this Declaration and the covenants, restrictions, conditions, easements, charges and liens set forth herein. The covenants, restrictions, conditions, easements, charges and liens herein set forth are covenants running with the land at law as well as in equity, and shall constitute a general plan for the benefit of and be enforceable by all present and future Owners of any Lot or Lots in the Property and their heirs, personal representatives, successors and assigns, as well as by Declarant and the Association. The language of this Declaration shall not be interpreted beyond its intended scope; that is, the Declaration shall not be interpreted to restrict actions not specifically prohibited herein, such as limiting the barking of dogs.

Section 3. Additional Property Subject to Declaration. Additional property may be added to, or made subject to this Declaration and the covenants, restrictions, conditions, easements, charges and liens set forth herein, in the following manner:

- a. If Declarant, or any other persons, firms or corporations owned or controlled by Declarant are the owners of any property which they desire to add to the scheme of this Declaration, they may do so by filing of record a Supplemental Declaration, which shall extend the scheme of this Declaration and the covenants and restrictions set forth herein to such property, PROVIDED HOWEVER, that such covenants and restrictions as applied to the property which is so added may be altered or modified by said Supplemental Declaration, and PROVIDED FURTHER, if property is proposed to be added to the scheme of this Declaration by any person, firm, or corporation not owned or controlled by Declarant, the Association, acting through its Board of Directors, must give written consent thereto. Property may be added to the scheme of this Declaration regardless of whether or not such property or properties are contiguous to the Property. Each Supplemental Declaration shall include a geographical description of the property added and shall designate said area with the term "Area" followed by a Roman numeral so as to differentiate each respective area from other areas within the Property.
- b. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to the surviving or consolidated association, or alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the Property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, restrictions, easements, charges and liens established by this Declaration with the Property together with the covenants, restrictions, easements, charges and liens established upon any other properties. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants, restrictions, easements, charges and liens established by this Declaration pertaining to the Property except as hereinafter provided.

**ARTICLE II
MEMBERSHIP AND VOTING RIGHTS
IN THE ASSOCIATION**

Section 1. Membership. Each and every person, persons, or legal entity who shall own any Lot in the Property, shall automatically be a Member of the Association. Such membership shall be appurtenant to each Lot and may not be severed from or held separately therefrom. Any person or entity who holds title to a Lot merely as security for the performance of any obligation shall not be a Member.

Section 2. Classes of Members. The Association shall have two classes of membership:

Class A. Class A Members shall be all those persons or legal entities who own a Lot with the exception (until the Conversion Date defined herein) of Declarant. After the Conversion Date, Declarant shall become a Class A Member to the extent that Declarant is the Owner of one or more Lots. When two or more persons or entities hold undivided interests in any Lot, all such persons or entities shall be Class A Members, and the vote for such part of the Property owned by such Members shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot in which such Members own undivided interests.

Class B. The Class B Member shall be Declarant or its successor or assign. The Class B membership of Declarant shall cease and become converted to Class A membership upon the occurrence of the earlier of the following (the Conversion Date):

- a. On January 1, 2015; or
- b. Upon the sale by Declarant of the last of the Lots owned by Declarant within the Property; or
- c. Such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Official Public Records of Real Property of Harris County, Texas.

Section 3. Voting Rights. The Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. Prior to the Conversion Date, the Class B Member shall be entitled to five (5) votes for each Lot it owns. From and after the Conversion Date, the Class B Member shall become a Class A Member entitled to one (1) vote for each Lot in which it holds the interest required for Association membership.

Section 4. Termination of Membership. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during

the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former owner.

ARTICLE III ASSESSMENTS

Section 1. Covenants for Assessments. The Declarant, for each Lot owned by it within the Property (being all Lots within the Property) hereby covenants to pay and each purchaser of any such Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay, to the Association: (1) Regular Annual Assessments or charges (as specified in Section 3 of this Article III); (2) Special Assessments (as specified in Section 4 of this Article III), and (3) Special Member Assessments (as specified in Section 5 of this Article III), all of such assessments to be fixed, established and collected as hereinafter provided.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of protecting and promoting the collective mutual enjoyment of the Owners of the Property, or any part thereof, and for carrying out the purposes of the Association as stated in its Articles of Incorporation, its bylaws and this Declaration. The judgment of the Board of Directors of the Association in determining the functions to be performed by the Association, in determining the amount of Regular Annual Assessments, Special Assessments and Special Member Assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith.

Section 3. Regular Annual Assessments. Each Owner of a Lot shall pay Regular Annual Assessments to the Association.

- a. Purpose. Regular Annual Assessments shall be levied upon each Lot to provide funds for the use and benefit of the Owners in the Property. Regular Annual Assessments may be used to finance the following (or any other items deemed necessary or advisable by the Board of Directors of the Association, to carry out the purposes in Section 2 above); however, it is not obligatory that such assessments be used for any of such purposes:
 - (i) Operation, maintenance, repair, and improvement of the Common Areas, the Common Facilities, the Common Personalty, and all Landscaping in the Common Areas including funding of appropriate reserves for future repair, replacement and improvement of same;
 - (ii) Payment of taxes and premiums for insurance coverage in connection with the Common Areas, Common Facilities, and Common Personalty and any other property owned by the Association;

- (iii) Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees required for management and supervision of the Common Areas, Common Facilities, and Common Personalty;
 - (iv) Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;
 - (v) Maintaining or replacing any Landscaping in the Common Areas;
 - (vi) Designing, purchasing and installing any improvements to the Common Areas;
 - (vii) Mowing and routine maintenance of the Common Areas including irrigation of Common Areas;
 - (viii) Removing debris from the Common Areas;
 - (ix) Lighting, improving and maintaining the sidewalks (other than sidewalks serving only one Lot), and paths in the Property;
 - (xi) Collecting and disposing of trash, garbage, ashes, rubbish and other similar materials;
 - (xii) Payment of legal fees and expenses incurred to collect assessments and enforce this Declaration;
 - (xiii) Employing policemen or watchmen and/or a guard service;
 - (xiv) Carrying out the duties of the Board of Directors of the Association;
 - (xv) Carrying out such purposes of the Association as generally benefit all Members of the Association; and
 - (xvi) Maintaining a subdivision entryway monument.
- b. **Basis for Assessment.** Subject to the provisions of Section 4 below, Regular Annual Assessments shall be levied against each Lot by the Board of Directors of the Association on an annual per Lot basis. The square footage contained in each Lot or within each house and/or dwelling shall not be considered. After consideration of current costs and future needs of the Association, the Board shall fix the Regular Annual Assessment at any amount not in excess of the hereinafter stated maximum.

- c. Maximum Annual Assessment. Until December 31, 2000, the maximum Regular Annual Assessment shall be \$500.00 for each Lot. From and after January 1, 2001, the maximum Regular Annual Assessment may be increased fifteen percent (15%) above the maximum assessment for the previous year by the Board of Directors of the Association without a vote of the Members. The maximum Regular Annual Assessment may be increased above such amount with the approval of a majority of the eligible votes of the Members voting in person or by proxy at a meeting called for such purpose.
- d. Lots owned by Declarant and Builders. Lots owned by the Declarant shall not be subject to the obligation of payment of Regular Annual Assessments. Lots owned by a Builder shall be subject to the obligation of payment of Regular Annual Assessments at the rate of 50% of the amount assessed against the Lots owned by the Class A Members who are not Builders until the earlier to occur of (i) twelve (12) months after the purchase of the Lot by the Builder, or (ii) the sale of the Lot to a Class A Member other than a Builder. At such time as a Lot is conveyed from Declarant to a Builder or other Owner the Regular Annual Assessment which would have been due for the year in which such transfer occurred shall be prorated as of the date of transfer and the Builder or other Owner shall pay the prorated amount for the remainder of the year to the Association.

Section 4. Special Assessments. In addition to the annual assessments authorized by Section 3 hereof, the Association may, by vote of its Members as set out in Section 5 hereof in any year or years, levy Special Assessments.

- a. Purpose. Special Assessments may be levied for the following purposes:
 - (i) Defraying the cost of any new construction or reconstruction, unexpected repair or extraordinary maintenance, or capital improvements for and within the Common Areas, Common Facilities, and Common Personalty, including the necessary fixtures and personal property related thereto;
 - (ii) Responding to unusual or emergency needs of the Association as a whole as may be expected to occur from time to time;
 - (iii) Satisfying the obligation and responsibility of replenishing all or part of any escrow funds held by any other third party which have been withdrawn to pay for obligations incurred or assumed by the Association under agreements with such third party and/or any other governmental authorities;
 - (iv) Indemnifying a director, officer, agent or employee of the Association pursuant to the indemnification provisions of the Articles of Incorporation and Bylaws of the Association or this Declaration; or

(v) Carrying out any other purposes that benefit the Association as a whole as stated in its Articles of Incorporation, Bylaws or as stated herein.

- b. Basis for Assessment. Special Assessments shall be allocated, assessed, and prorated among the Owners at the date each such Special Assessment is levied in the same manner as Regular Annual Assessments are allocated, assessed, and prorated among the Lots pursuant to Section 3 of this Article.

Section 5. Vote Required for Special Assessments. The Special Assessments authorized by Section 4 hereof must be approved by two-thirds (2/3rds) of the total eligible votes of the Members by Members voting in person or by proxy at a meeting duly called for such purpose, a written notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of such meeting.

Section 6. Commencement Date of Annual Assessments. The first Regular Annual Assessment provided for herein shall commence on a date in 2000 fixed by the Board of Directors of the Association and shall continue thereafter from year to year. The assessment for 2000 shall be adjusted according to the number of months remaining in such year and shall be due and payable thirty (30) days after notice of assessment is sent to the Owners of the Lots.

Section 7. Due Date of Assessments. On or before November 30 of each year commencing November 30, 2000, the Board of Directors shall fix the Regular Annual Assessment for the following calendar year which shall become due and payable on January 1 of such year and become delinquent if not paid by January 31 of such following year. The due date of any Special Assessments under Section 4 hereof or of any Special Member Assessment under Section 5 hereof shall be thirty (30) days after the notice of such assessment is given.

Section 8. Owner's Personal Obligation for Payment of Assessments. The Regular Annual Assessments and all Special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such assessments and such obligation shall constitute a lien running with the land as set forth in Article III, Section 9 below. No Owner may, for any reason, exempt himself from liability for such assessments. In the event that any assessment or installment thereof is not paid when due, then the unpaid amount of any such assessment or installment thereof shall become delinquent and shall, together with interest thereon as herein provided and costs of collection thereof, be a continuing personal obligation and debt of the non-paying Owner secured by the continuing lien imposed by this Declaration on the Lot, including all improvements thereon, to which such assessment or installment thereof pertains.

The obligation of any Owner to pay any assessment imposed on a Lot during such Owner's period of ownership shall remain such Owner's personal obligation, and a sale or other transfer of title to such Lot shall not release such former Owner from said liability notwithstanding an assumption of liability by the purchaser or transferee. The lien imposed by this Declaration for any

unpaid assessments shall be unaffected by any sale or transfer of full or partial ownership interests in a Lot, or portion thereof, and shall continue in full force and effect.

The unpaid amount of any assessment or care and maintenance performed by the Association as provided in Article VII, Section 2, shall bear interest from its due date at eighteen percent (18%) per annum or the maximum legal rate of interest then prevailing, whichever is lesser. In addition, the Board of Directors of the Association may elect to retain the services of an attorney of its choice for the purposes of collecting any unpaid assessment and interest charges thereon, and/or to foreclose the lien imposed by this Declaration against the property subject thereto and/or to pursue any other legal or equitable remedy which the Association may have and there shall be added to the amount of the unpaid assessment and interest charges thereon, any and all collection costs incurred by the Association, whether judicial or non-judicial, and including, but not limited to, reasonable attorneys fees and costs of legal suit.

Section 9. Assessment Lien and Foreclosure. Declarant hereby imposes upon each and every Lot within the Property a continuing lien enforceable by the Association to secure the payment to the Association of the Regular Annual Assessments, Special Assessments and Special Member Assessments (together with interest and the cost of collection, including reasonable attorneys' fees as provided in Section 9 hereof) attributable to the Owner of that Lot (the "Association's Lien"). Each Owner, by acceptance of the deed for such Owner's Lot or Lots, and whether or not it shall be so expressed in such deed, is deemed to covenant and agree to accept such Lot subject to the Association's Lien. Each Owner, by acceptance of the deed therefor and whether or not it shall be so expressed in such deed, hereby expressly vests in the Board of Directors of the Association, or its agents, the right and power to bring all actions against each such Owner personally for the collection of all such assessments as a debt and to enforce the aforesaid Association's Lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to 51.002 of the Texas Property Code, as same presently exists or as it is subsequently amended; and each such Owner hereby expressly grants to the Board of Directors of the Association a power of sale in connection with said Association's Lien. The Board of Directors of the Association may designate a trustee in writing from time to time to post or cause to be posted the required notices and to conduct such non-judicial foreclosure sale. The trustee may be changed at any time and from time to time by an instrument in writing signed by the president or a vice-president of the Association and attested by the secretary or any assistant secretary of the Association and filed for record in the Official Public Records of Real Property of Harris County, Texas. The initial designation of a trustee by the Board of Directors of the Association shall be by an instrument in writing that is executed and filed in the same manner as an instrument changing the designated trustee. In any foreclosure proceedings, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses and reasonable attorney's fees incurred by the Association, and the Association shall have the right and power to bid on the property being foreclosed. The aforesaid Association's Lien shall be superior to all other liens and charges against the Property, except only for ad valorem tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement and for purchase of the property in question, to which said liens the Association's Lien shall be subordinate and inferior. Provided, however, that

such subordination shall apply only to the assessments which have become due and payable prior to a foreclosure sale (whether public or private) of any such Lot pursuant to the terms and conditions of any such mortgage or deed of trust. Any foreclosure and sale of a Lot pursuant to said superior liens shall not relieve any such Lot's Owner of personal liability for the sums owing under this Article nor the new Owner thereof from liability for the amount of any assessments thereafter becoming due nor from the continuing lien imposed hereby securing payment of any such subsequent assessments. The Association, acting through its Board of Directors, shall have the power to subordinate the aforesaid Association's Lien to any other lien.

Section 10. Common Properties Exempt. The Common Areas and any common properties of any other association which may merge or consolidate with the Association, and any common properties contained or defined within a Supplementary Declaration filed as provided in Article I, Section 3 of this Declaration, and all portions of the Property owned by or otherwise dedicated to any political subdivision, shall be exempted from the assessments and liens created herein.

Section 11. Certificate of Payment. The Board of Directors of the Association shall, upon the request of an Owner and the payment of a reasonable charge established by said Board of Directors, cause to be furnished to any such Owner liable for assessments, a certificate in writing signed by an officer of the Association setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of the payment of any assessments therein stated to have been paid.

ARTICLE IV ARCHITECTURAL CONTROL COMMITTEE

Section 1. Designation of Committee. The Association shall have an Architectural Control Committee, which shall consist of three (3) members who shall be natural persons, and who need not be Members of the Association. Members of the Board of Directors may also be members of the Architectural Control Committee. Until the date Declarant has sold all the Lots, the appointment of the members of the Architectural Control Committee shall be made by Declarant and any and all members of such committee may be removed by the Declarant without cause. After such date, the Board of Directors shall have the exclusive right and power at any time and from time to time to appoint, remove and fill vacancies on the Architectural Control Committee. Declarant hereby appoints John D. Santasiero, Dan Silvestri and Erik Haaland as the initial three (3) members of the Architectural Control Committee.

Section 2. Function of Architectural Control Committee. No Improvement, as that term is hereinafter defined, shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any Lot until plans and specifications, in such form and detail as the Architectural Control Committee may deem necessary, shall have been submitted to and approved in writing by such committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties and shall have the power to

charge a fee or fees related to the processing of an application and review if it desires. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant, without recourse or liability to the Architectural Control Committee.

Section 3. Content of Plans and Specifications. The plans and specifications required by the Architectural Control Committee to be submitted and approved may include, without limitation, the following:

- a. A plot showing the location of all improvements, structures, walks, patios, driveways, fences and walls. Existing and finished grades shall be shown if below those shown on the grading plan, and slab elevations for the proposed improvements shall be shown.
- b. Exterior elevations.
- c. Exterior materials, colors, textures, and shapes.
- d. Structural design.
- e. Landscaping plan - Builders shall be required to submit conceptual landscape plan for typical corner and interior Lots along with plant material schedule.
- f. Parking area and driveway plan.
- g. Screening, including size, location, and method.
- h. Location of air conditioning compressor units (which need not be drawn on the plot plan).

The Architectural Control Committee may, at its discretion, grant the approval required by this Article IV for one set of plans and specifications submitted by a Builder for Improvements on multiple Lots, and such approval shall be effective for each Lot on which such Improvements are constructed. Each Owner shall have the responsibility to conform to the provisions of this Declaration for the benefit and value of the Property and shall have the obligation to build improvements which are in harmony with other improvements in the Property.

Section 4. Definition of "Improvement". Improvement shall mean and include, without limitation, all buildings, any roofed structures, parking areas, fences, walls, hedges, mass plantings, poles, driveways, ponds, swimming pools, tennis courts, changes in any exterior color or shape, and any new exterior construction or exterior improvement which may not be included in any of the foregoing. It does not include garden shrub or tree replacements or any other replacement or repair of a magnitude which does not change exterior colors, exterior appearances or the contour of the

Property. It does include, without limitation, original improvements and other exterior improvements to the Property.

Section 5. Basis of Approval. Approval of plans and specifications shall be based, among other things, on adequacy of site dimensions, structural design, conformity and harmony of external design and of location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general intent of the protective covenants and restrictions of Article V hereof and any architectural guidelines that may be defined by the Architectural Control Committee.

Section 6. Failure of the Committee to Act. If the Architectural Control Committee fails to approve or disapprove such plans and specifications or to reject them as being inadequate within forty-five (45) days after submittal thereof, it shall be conclusively presumed that such committee has approved such plans and specifications, provided such plans are not in conflict with the provisions of this Declaration, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variance from the requirements of the protective covenants, conditions, and restrictions contained in Article V hereof, except as specifically provided therein.

Section 7. Limitation of Liability. The Architectural Control Committee has no liability or obligation whatsoever in connection with any plans and/or specifications and no responsibility for the adequacy thereof or for the construction of any improvements contemplated by any such plans and/or specifications. The Architectural Control Committee has no duty to inspect any Improvements; and, if the Architectural Control Committee should inspect any Improvements, the Architectural Control Committee shall have no liability or obligation to any party arising out of such inspection. The Architectural Control Committee expressly shall have no liability or responsibility for defects in or omissions from any plans and/or specifications or for defects in or omissions from the construction of any Improvements. The approval or lack of approval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by such committee, including, without limitation, any warranty or representation relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Notwithstanding any covenant, condition or term contained in this Declaration or provision of the Bylaws of the Association to the contrary, the Architectural Control Committee shall not have any liability to any Owner arising or resulting from any act or omission of the Architectural Control Committee taken or omitted pursuant to this Declaration or the Bylaws of the Association. Each Owner by accepting a conveyance of any Lot or of any portion of the Property conclusively shall be deemed to have unconditionally and irrevocably waived all claims against the Architectural Control Committee arising or resulting from acts or omissions pursuant to this Declaration or the Bylaws of the Association.

ARTICLE V PROTECTIVE COVENANTS AND RESTRICTIONS

Section 1. Covenants Applicable. The following provisions shall be applicable to any and all construction, improvement, alteration, or addition to the Lots.

- a. Each Lot shall be used exclusively for single family residential dwelling purposes only, not to exceed the greater of two and one-half (2 ½) stories in height, or forty-five feet (45') above nearest curb elevation. No building or structure intended for or adapted to business purposes, and no apartment house, hospital, sanatorium or doctor's office, or other multifamily dwelling shall be erected, placed, permitted or maintained on any Lot, or on any part thereof. No improvement or structure whatsoever, other than a private dwelling house, patio walls, swimming pool, and customary outbuildings, garage for not more than three (3) cars, porte cochere, bona fide servants' quarters, or bona fide guest house, may be erected, placed, or maintained on any Lot. No other Improvements on the Lot shall exceed the height of the main dwelling house.
- b. No sign, including political signs, advertisement, billboard or advertising structure of any kind shall be displayed, maintained or placed in the public view on or from any part of the Property or on any Lot, except signs temporarily used by Declarant or any Owner on a Lot, of not more than six (6) square feet, advertising the Lot for sale or rent, or signs of architects and builders during the period of construction and sale of Improvements on any Lot, or otherwise as may be required by applicable law in connection with political campaigns.
- c. The total living area of any single-story dwelling, exclusive of porches, servants' quarters, customary outbuildings and garages, shall not be less than 2,500 square feet.
- d. The living area of any two-story dwelling constructed on any Lot, exclusive of open porches, servants' quarters and garages, shall not be less than 1,500 square feet on the ground floor and not less than 2,700 square feet for the total living area, and the floor area the second floor of any such two-story dwelling, exclusive of porches, servants' quarters, customary outbuildings and garages, shall not exceed 60% of the total floor area of such two-story dwelling. A variance from this restriction may be specifically approved in writing by the Architectural Control Committee, if such variance would result in a more common beneficial use.
- e. The exterior walls of any dwelling and any attached garage and servants' quarter containing one or more stories as set out below, exclusive of doors, windows and other building openings, shall not be less than the percentage of stucco and/or masonry construction set out below, unless a variance from

this restriction is specifically approved in writing by the Architectural Control Committee. As used herein, "Hardyboard" or similar siding or concrete siding shall not be considered masonry or stucco. All chimneys constructed or erected on any Lot as a part of an exterior wall of any dwelling or constructed as a component of the front or side of any dwelling which faces a street and the front, side or rear of custom and lake front dwellings shall be of masonry or stucco construction.

Percent Masonry/Stucco to Lot Width

<u>House Style</u>	<u>Percent Masonry or Stucco</u>
1 Story	85%
More than 1 Story	75%

When fulfilling the percentage of masonry/stucco requirement to homes with attached garages, the masonry/stucco used on the garage will be allowed to meet the percentage requirement. All fronts of detached garages must be masonry or stucco and the masonry/stucco on the garage front may not be used to fulfill the percentage requirements related to the dwelling. The Architectural Control Committee shall have the right to grant waivers of the foregoing requirements.

- f. Except for any fences erected by Declarant, no chain link fence or fences shall be situated, erected, constructed, or permitted to remain upon any Lot, or any portion thereof. No fence is to be erected or maintained nearer to the front Lot line than ten feet (10') from the front wall of the main dwelling. Fences other than perimeter fences shall be six feet (6') in height (plus a six inch (6") rot board) and perimeter fences shall be seven feet (7') in height (plus a twelve inch (12") rot board and caps). Notwithstanding the foregoing to the contrary, fences adjacent to Common Areas used as greenbelts and fences along or facing streets shall be six feet (6') in height (plus a six inch (6") rot board, a four inch (4") rail and caps). All fences shall be constructed of wood, brick masonry, decorative iron, or a combination of wood, brick masonry and/or decorative iron. All fences must have the Architectural Control Committee's approval of the plans for such fence before installation. As used herein, the term perimeter fences shall refer to fences around the perimeter of the Property. No items may be attached to or hung onto a fence. Fences located between Lots shall be the responsibility of both adjoining Lot Owners to maintain. The side of a fence which faces any Common Areas or a street must be a "finished" side. No fences shall be painted.

- g. All roofs constructed upon any dwelling and/or other structures constructed, erected, or located upon any Lot, except roofs over porches, shall be constructed with a minimum pitch of 6 rise/run by 12 rise/run and shall be constructed of architectural dimensional shingles of a quality equal to or exceeding 25-year warranty, unless a variance from this restriction is specifically approved in writing by the Architectural Control Committee.
- h. No animals, livestock, or poultry shall be raised, bred, or kept upon any Lot, or portion thereof, except that no more than a total of three (3) dogs, cats, or other household pets of a domestic variety may be kept, provided that they are not kept, bred, or maintained for any commercial purposes, and provided that they do not create a nuisance.
- i. No noxious or offensive trade or activity (including child day-care and garage sales) shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. The drying of clothes in public view is prohibited.
- j. No Lot shall be used or maintained as a dumping ground for rubbish, nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors, exclusive of cooking odors generated from the use of spices. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators, containers, or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. No compost shall be permitted upon any Lot. All refuse or garbage must be kept on the Lot in a manner which precludes its view from any public or semi-public place.
- k. No building material of any kind or character shall be placed or stored upon a Lot until the Owner is ready to commence improvements and then such materials shall be placed within the property lines of the Lot upon which the improvements are to be erected, and shall not be placed in the street. No stumps, trees, underbrush, mulch, building materials, or any refuse of any kind, nor scrap material from the improvements being erected on any Lot shall be placed on any adjoining Lots or streets. All such material, if not disposed of immediately, must remain on the Lot on which construction work is in progress and shall be screened from public view, and at the completion of such improvements, such material must be immediately removed from the Property.

- l. No trailer, tent, shack, mobile home, or any structure of a temporary character shall at any time be erected, located, or used on any Lot as a residence or business, either temporarily or permanently, except during actual construction of a building being erected thereon, and then same must be on the Lot on which construction is in progress and not on adjoining Lots, streets, or easements, and shall not be more than eight feet (8') in height and at completion of construction, such trailer, tent, shack, mobile home or temporary structure must be removed immediately. No such trailer, tent, shack, mobile home, or temporary structure shall be used for residential purposes during construction. No garage or outbuilding shall ever be used as a residence or business, either temporarily or permanently. Upon approval by the Architectural Control Committee, guest quarters or other living quarters may be constructed as a second floor to a garage. Notwithstanding the foregoing, nothing contained herein shall prohibit the location of a temporary structure approved by the Architectural Control Committee on any part of the Property for use temporarily as a sales office for homes erected or to be erected by builders or developers. The size, location, and period of occupancy of such temporary sales or construction offices shall be subject to the prior written approval of the Architectural Control Committee, which approval may be given or withheld at such committee's sole discretion, and if withheld, then the location and use of such trailer, mobile home or temporary structure for a sales office at the requested location shall be prohibited. Upon the expiration of the period of occupancy permitted by the Architectural Control Committee for such temporary sales office, such trailer, mobile home or temporary structure shall be removed immediately.
- m. Motorhomes, campers, travel trailers, inoperative vehicles, motor boats, house boats, sailboats or other similar waterborne vehicles or any trailer to transport such boat or vehicle (hereinafter collectively referred to as "Vehicles") are not permitted on the Property unless maintained, stored or kept on a Lot only within an enclosed garage except for temporary periods (not to exceed twenty-four [24] hours) during which such Vehicles may be on the Lot outside the garage for loading, unloading and cleaning. No motor vehicles shall remain in the same general location on a street or in a driveway for more than 7 consecutive days.
- n. Except in the case of (i) a detached garage located behind the rear of the residence or (ii) an attached garage located more than ten (10) feet from the front of the house, no garage door shall be constructed or erected upon any Lot with the door at less than a 90 degree (90°) angle to the front property of such Lot. A variance from these restrictions may be granted by the Architectural Control Committee. No garage may be used as a living area.

On corner Lots the garage may not face the side property line or have driveway access from the side street.

- o. All dwellings or residences constructed or erected upon any Lot shall face the road or street that the Lot faces as shown on the recorded plat and no portion of such dwelling or residence shall be nearer to the street property line of the Lot than is designated by the building line, if any, on the recorded plat.
- p. The location of all structures constructed, erected, situated, or placed upon any Lot must be in conformance with the building lines, if any, as shown on the recorded plats of the Property, and the minimum building set-back lines established by the ordinances and regulations of Harris County, Texas.
- q. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot in the Property, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.
- r. Before the dwelling is conveyed by a Builder, the Builder shall construct a concrete sidewalk four feet (4') in width parallel to the Lot boundary line abutting any street boundary line and five feet (5') back from the Lot boundary line abutting any street boundary line, which sidewalk shall extend from property line to property line. The plans for the sidewalk shall be approved by the Architectural Control Committee. Owners of corner Lots shall construct such sidewalk on both streets. Such sidewalks shall comply with all Federal, State and County regulations. The obligation to maintain the sidewalk between a Lot and the street(s) abutting such Lot shall be the responsibility of the Owner of such Lot.
- s. No more than one garage sale per year may be conducted on a Lot without the prior approval of the Board of Directors of the Association. Each Owner must submit advance notice of the intent to conduct a garage sale to the Board of Directors of the Association.
- t. Swimming pools shall be permitted with the prior approval of the Architectural Review Committee, but no portion of the pool or any deck adjacent to the pool shall be located within five feet (5') of any interior side property line, any utility easement or building setback line, whichever is greater.

- u. All exterior lighting must be approved by the Architectural Control Committee or be in compliance with standards issued by the Architectural Control Committee.
- v. Trees selected for preservation on a Lot must be flagged and encircled with protective fencing, preferably 4 x 4 inch posts 8 foot on center with three 2 x 4 inch cross members 18 inches on center; although "snow" fencing is permissible. The clearing of underbrush under such trees' drip-line if necessary should not occur until completion of construction activities. Builder will respect a tree's protected area by not dumping backfill into, excavating soil from, falling trees into, driving construction equipment into or through, stacking, parking or storing supplies and/or equipment in, locating temporary construction buildings in and/or dumping paints, thinners, and other toxic materials into, the protected area. Wherever it is necessary to trench or bore near protected trees for utilities, Builder should use all possible care to avoid injury to tree roots. Excavations in areas where roots are two inches or larger in diameter should be done by hand, tunneling under the roots. In the event any tree designated for preservation is damaged, Builder will repair such tree in a manner approved by the Architectural Control Committee as soon as possible. Builder agrees that clearing operations will be staged so that only land which will be developed promptly is void of protective vegetation, and site grading will not be changed so as to allow drainage to flow into or collect in a tree's protected area.
- w. No antenna, tower, satellite dish or similar device for receiving and/or sending signals shall be erected, constructed or placed on any Lot for any purpose without prior written approval in writing from the Architectural Control Committee except satellite dishes of one meter or less in diameter. However, in no case shall any such devices extend or project above the highest point of the rear roof line of the residence or be visible from the street. In no instance will such devices be allowed on corner Lots. Notwithstanding the above, each Owner may install one satellite dish in the Owner's backyard so long as said satellite dish does not extend more than six (6) feet above the ground, is not visible from the street in front of the Owner's Lot, and is screened by an approved fence.
- x. Any and all lines and/or wires for communication or for transmission of sound or current, not within a building, shall be constructed or placed and maintained underground.
- y. The drainage of any Lot shall not be impeded or altered without the approval of the Architectural Control Committee. Neither the Association nor the

Architectural Control Committee shall be responsible for resolving disputes between Owners related to drainage issues.

- z. All air conditioner compressors on corner Lots must be screened from view from all streets by wooden fencing approved by the Architectural Control Committee. All air conditioner compressors on non-corner Lots must be screened from view from all streets and adjoining Lots by landscaping and/or fencing approved by the Architectural Control Committee.

Section 2. Landscaping. All Lots shall be landscaped, and such landscaping shall conform to the following requirements:

- a. The landscaping shall be completed contemporaneously with completion of other improvements, in advance of occupancy or completion of a residence, whichever shall first occur, unless a longer period is approved in writing by the Architectural Control Committee.
- b. The landscaping shall conform to a conceptual landscaping plan approved by the Architectural Control Committee pursuant to Article IV hereof. . Normally, such approval will be limited to landscaping plans which:
 - (i) Provide for all Lots to have a minimum of three (3) trees of at least 4" caliper and provide for the planting of bushes and shrubs of a minimum size of 5 gallons and 1 gallon for ground cover and bedding plants along the entire front of the residence for all Lots;
 - (ii) Do not obstruct sight lines at street or driveway intersections;
 - (iii) Preserve existing trees to the extent practical; and
 - (iv) Permit reasonable access to public and private utility lines and easements for installation and repair.
 - (v) Provide for installation of the following trees in addition to those specified in subparagraph (i) above; at least two (2) live oaks of at least 2" caliper along the front of the Lot between the sidewalk and the street curb, and, on corner Lots, an additional three (3) live oaks of at least 2" caliper along the side of the Lot between the sidewalk and the street curb.
- c. The front yard of each Lot out to the street curb as well as the side yard of each Lot out to the street curb on all corner Lots shall be completely sodded by the Builder upon completion of the residence and prior to occupancy.

Section 3. Side Setbacks. No part of a residence or garage shall be located on a Lot nearer than five (5) feet to a side Lot line; provided, however, notwithstanding the foregoing, a detached garage may be located no nearer than three (3) feet from a side Lot line if it is located at least sixty-five (65) feet from the front Lot line. The Architectural Control Committee may grant variances to this requirement.

Section 4. Composite Building Site. Any Owner of one or more adjoining Lots may consolidate such Lots into one single-family residence building site, with the privilege of placing or constructing improvements on such site, in which case setback lines shall be measured from the resulting side property lines rather than the Lot lines shown on the recorded plat. In all instances improvements on consolidated building sites must be approved by the Architectural Control Committee.

Section 5. Special Setbacks. No part of a residence or a garage shall be located on the Lots within the setback lines described in the plat of the Property. The Architectural Control Committee may grant variances to this requirement.

ARTICLE VI RESERVATION AND GRANT OF EASEMENTS

Section 1. Utilities. Easements for installation, construction, reconstruction, patrolling, inspection, maintenance, repair, removal, and/or addition of utility systems or facilities and for ingress and egress to or from and upon such utility easements are reserved by Declarant as shown on the plats of the Property, the provisions of said plats pertaining to the use of land situated within such utility easements being hereby referred to and incorporated herein for all purposes. No Improvement of any kind shall be erected upon any of said easements. Full right of ingress and egress shall be had by Declarant, any municipal authority having jurisdiction over the Property, and any utility company which provides utilities to the Property, at all times over any dedicated easement 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 of such easement, or with the use, maintenance, operation or installation of such utility. All claims for damages, if any, arising out of the construction, reconstruction, patrolling, inspection, maintenance, repair, removal and/or addition of utilities or on account of temporary or other inconvenience caused thereby, against the Declarant, or any utility company or municipality, or any of its agents or servants, are hereby waived by the Owners.

Section 2. Wall Easement. There is hereby reserved and created a perpetual right and easement for the benefit of the Association, its successors and assigns, upon, over and across the Lots for the purposes of constructing, maintaining, repairing, replacing and reconstructing Landscaping and any brick wall or fence located upon any land owned by the Association.

Section 3. Universal Easement. Each Lot and its Owner is hereby declared to have an easement, and the same is hereby granted to Declarant, over all adjoining Lots and Common Areas

for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to the Lot being serviced and shall pass with each conveyance of said Lot.

Section 4. Bell Bottom Foundation Easement. The Owners of each Lot shall have and are hereby granted, a five foot (5') underground easement, extending five feet (5') into the side building setback line of the adjacent Lot. Said underground easement shall be used solely for the installation, construction and maintenance of underground bell bottoms in conjunction with the installation of residential foundations.

ARTICLE VII MAINTENANCE

Section 1. Owner's Duty of Maintenance. The Owners and Occupants of each Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that part of the Property so owned or occupied including buildings, improvements and grounds in connection therewith, in a well maintained, safe, clean, sanitary, healthful and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- a. Prompt removal of all litter, trash, refuse, and waste.
- b. Lawn mowing to maintain grass at a height not to exceed four inches (4").
- c. Tree and shrub pruning and shaping complementary to the residential design of the dwelling.
- d. Watering to reasonably maintain the growth and condition of the landscaping of the Lot.
- e. Keeping lawn and garden areas alive, free of weeds, and attractive.
- f. Keeping parking areas and driveways in good repair.
- g. Complying with all government health and policy requirements.

- h. Repair of exterior damages to buildings and improvements and repainting of buildings and improvements when necessary.

Section 2. Enforcement. If, in the opinion of the Association (acting through its Board of Directors), any such Owner or Occupant has failed in any of the foregoing duties or responsibilities, then the Association (acting through its Board of Directors) may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the care and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association through its authorized agent or agents shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and Occupants of any Lot on which such work is performed shall jointly and severally be liable for the cost of such work and shall promptly reimburse the Association for such cost. If such Owners or Occupants shall fail to reimburse the Association within ten (10) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of said Owners and Occupants jointly and severally, and the Association may levy a Special Member Assessment in accordance with this Declaration, which Special Member Assessment is secured by the lien imposed by Article III, Section 10 of this Declaration and interest thereon as provided in Article III, Section 9 of this Declaration and is subject to foreclosure as is provided therein.

ARTICLE VIII COMMON PROPERTIES

Section 1. Easements of Enjoyment. Subject to the provisions of Section 3 hereof, every Member of the Association shall have a non-exclusive right and easement of enjoyment in and to the Common Areas.

Section 2. Title to Common Properties. Declarant shall convey ownership of the Common Areas and any Common Facilities, and/or Common Personalty owned by Declarant to the Association, which shall be responsible for their operation, repair and maintenance.

Section 3. Extent of Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- a. The right of the Association to prescribe rules and regulations for the use, enjoyment, and maintenance of the Common Areas.
- b. The right of the Association to convey or dedicate to the appropriate governmental authority, the Common Areas, or any part thereof, provided such sale, conveyance or dedication is approved by a majority of the total eligible votes of the Members of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which

shall be given to all Members at least thirty (30) days in advance of the meeting and shall set forth the purpose of the meeting.

- c. The right of the Association to borrow money for the purpose of improving, maintaining, or repairing the Common Areas and/or Common Facilities, or any part thereof, without a vote of the Members, and to mortgage the Common Areas, Common Facilities, or any part thereof, in accordance with the bylaws of the Association.
- d. The right of the Association to take such steps as are reasonably necessary to protect the Common Areas and/or Common Facilities, or any part thereof, against foreclosure.
- e. The right of the Association to "suspend the voting right" and right to use the Common Facilities of any Member for any period during which any assessment or other amount owed by the Member to the Association remains unpaid or during which such Member is in violation of any of the provisions of this Declaration.
- f. The right of the Association to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Areas, and to suspend the enjoyment rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulation.

ARTICLE IX MISCELLANEOUS PROVISIONS

Section 1. Duration. This Declaration and the covenants, restrictions, conditions, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, and every Owner of any part of the Property, including Declarant, their respective legal representatives, heirs, successors and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including December 31, 2030, after which time said covenants, restrictions, conditions, charges, and liens shall be automatically extended for successive periods of ten (10) years unless a change (the word "change" including additions, deletions or modifications thereto, in whole or in part) is approved by a majority of the total eligible votes of the Members of the Association as defined in Article II hereof, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance of the meeting and shall set forth the purpose of such meeting.

Section 2. Amendment. This Declaration may be amended or terminated at any time by a majority of the total eligible votes of the Association voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance of the meeting and shall set forth the purpose of such meeting, provided that

Declarant must consent thereto if such amendment or termination is to be effective prior to January 1, 2015. Any such amendment or termination shall become effective when an instrument is filed for record in the Official Public Records of Real Property of Harris County, Texas, with the signatures of the requisite number of the owners of the Property (and the signature of Declarant if prior to January 1, 2015).

Section 3. Enforcement. The Association, every Owner, Declarant, and their respective legal representatives, heirs, successors and assigns, shall each have the right (but not the duty) to enforce this Declaration and the covenants, restrictions, conditions, charges and liens contained herein. Enforcement of the covenants, conditions and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure by the Association or any owner or Declarant to enforce any such covenant, condition, restriction, charge or lien shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability of Provisions. If any paragraph, section, sentence clause or phrase of this Declaration shall be illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 5. Notice. Whenever written notice to the Owners (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owners appearing on the records of the Association (and as furnished to the Board of Directors by such Owners). If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail, postage prepaid, properly addressed, whether received by the addressee or not.

Section 6. Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 7. Number and Gender of Words. Whenever used in this Declaration, the singular number shall include the plural where appropriate, and vice versa; words of any gender shall include each other gender, where appropriate.

Section 8. Assignment. Declarant shall have the right to assign and/or delegate its rights, privileges, duties and obligations hereunder.

Section 9. Address of Declarant. The mailing address of Declarant is 4545 Post Oak Place, Suite 312, Houston, Texas 77027.

Section 10. Insurance. The Board of Directors of the Association shall obtain insurance (the premiums for which shall be a common expense payable from assessments) for all the Common Areas and the Common Facilities, as follows (such insurance to be in amounts designated by the Board of Directors unless an amount is specified in this Declaration):

- a. Insurance on all insurable improvements against loss or damage by fire and all other risks insured by standard extended coverage policies in use in the State of Texas, with such endorsements as the Board of Directors deems advisable, in amounts sufficient to prevent the Association from being a co-insurer within the terms of such policies, but in any event in an amount not less than the full replacement cost thereof. The replacement cost of such improvements shall be determined by the Board of Directors which may obtain an appraisal in making such determination, the cost of which shall be a common expense payable from property assessments.
- b. Comprehensive general liability insurance against claims for bodily injury or death (minimum coverage of \$1,000,000.00) and property damage suffered by the public or any Owner, family, agent, employee or invitee of any Owner, occurring in, on or about the Common Areas, and at least \$1,000,000.00 in "umbrella" coverage together with director's and officer's liability insurance for the directors and officers of the Association against any liability asserted against any such party, or incurred by such party in such capacity, or arising out of such party's status as a director or officer. Any policy obtained pursuant to this subsection (b) shall contain a cross-liability endorsement whereby the rights of a named insured shall not prejudice his, her or their action or actions against another named insured, and shall contain a "severability of interest" type of endorsement precluding the insurer from denying a claim of any Owner or the Association because of the negligent acts of other Owners or the Association.
- c. Such other insurance in such reasonable amounts as the Board of Directors shall deem desirable and fidelity bonds for any management company retained by the Board of Directors.
- d. All insurance provided for herein shall be effected with responsible insurers authorized to do business in the State of Texas. All such policies of insurance shall name as insured the Association. All insurance policies shall be held with insurance companies with an AM Best & Company rating of not less than an A + 9 rating, or comparable rating as determined by the Board of Directors of the Association.

Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas or the Common Facilities covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.

Any damage or destruction to the Common Areas or Common Facilities shall be repaired or reconstructed unless Members holding a majority vote of each class of voting membership in the Association decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided however, that such extension shall not exceed sixty (60) days.

In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Areas or Common Facilities shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Common Areas by the Association in a neat and attractive condition.

ARTICLE X RATIFICATION: LIENHOLDER

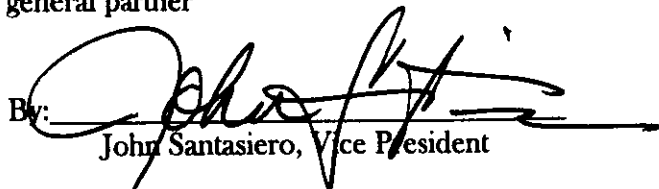
Section 1. Coastal Banc ssb, the owner and holder of a lien or liens covering the property known as Tuscany Section One, has executed this Declaration to evidence its joinder in, consent to, and ratification of the foregoing Covenants, Conditions and Restrictions.

Executed the date set forth above.

TOSCANO PARTNERS, LTD.,
a Texas limited partnership

(3)
JA

By: Spot Management, Inc., a Texas corporation,
general partner

By: 
John Santasiero, Vice President

Lienholder:

533-43-3435
for

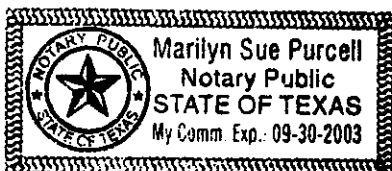
COASTAL BANC ssb

By: Michael J. PeeryTitle: Michael J. Peery
Sr. Vice President

STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the 7th day of July, 2000 by John Santasiero, Vice President of Spot Management, Inc., a Texas corporation, on behalf of said corporation in its capacity as general partner of Toscano Partners, Ltd., a Texas limited partnership, on behalf of said partnership.



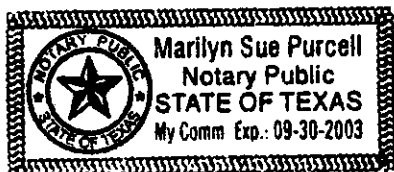
Marilyn Sue Purcell
NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Michael J. Peery, Sr. Vice President of Coastal Banc ssb, who is known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7th day of July, 2000.



Marilyn Sue Purcell
Notary Public in and for the State of Texas

AFTER RECORDING RETURN TO:
John G. Cannon
Winstead Sechrest & Minick P.C.
910 Travis Street, Suite 2400
Houston, TX 77002-5895

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1.17.10
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FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR TUSCANY, SECTION ONE

20090041596
02/03/2009 RP1 \$24.00

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF HARRIS §

WHEREAS, that certain Declaration of Covenants, Conditions and Restrictions for Tuscany, Section One (as supplemented and amended, the "Declaration") dated as of July 1, 2000, was recorded in the Office of the County Clerk of Harris County, Texas, under Clerk's File Number U501968 on July 13, 2000, and subjects real property known as Tuscany, Section One, a subdivision in Harris County, Texas, being more particularly described therein (together with annexed sections being herein called the "Subdivision"), to the covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration; and

WHEREAS, Article IX, Section 2 of the Declaration provides that the Declaration may be amended by a majority of the total eligible votes of Tuscany Community Association, Inc., a Texas non-profit corporation (the "Association") voting in person or by proxy at a meeting duly called for such purpose, written notice of which is given to all members of the Association ("Members") at least thirty (30) days in advance of the meeting; and

WHEREAS, Article IX, Section 2 of the Declaration further provides that any amendment to the Declaration shall become effective when an instrument is filed for record in the Official Public Records of Real Property of Harris County, Texas, with signatures of the requisite number of owners of property in the Subdivision (and the signature of Toscano Partners, Ltd., a Texas limited partnership [the "Declarant"] if prior to January 1, 2015; and

WHEREAS, a meeting of the Members of the Association was duly called for September 30, 2008, to consider and vote upon this First Amendment to Declaration of Covenants, Conditions and Restrictions for Tuscany, Section One and after notice to all Members in accordance with Article IX, Section 2 of the Declaration and pursuant to the By-Laws of the Association, a majority of the total eligible votes of the Association voting in person or by proxy at the meeting on September 30, 2008, approved this First Amendment.

NOW, THEREFORE, in consideration of the recitals set forth above, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, being the President of the Association, does hereby certify that a meeting of the Members of the Association was duly called to consider and vote upon this First Amendment to Declaration of Covenants, Conditions and Restrictions for Tuscany, Section One, and that after notice to all Members in accordance with Article IX, Section 2 of the Declaration and pursuant to the By-Laws of the Association, a majority of the total eligible votes of the Association, voting in person or by proxy at the meeting on September 30, 2008, approved this First Amendment as evidenced by the signatures of the owners on the attached Consent to Amendment and the Consent/Proxy/Ballots. Accordingly, the following provision in the Declaration is hereby amended to read as follows:

FILED FOR RECORD
8:00 AM

FEB -3 2009

Dwight D. Hyman
County Clerk, Harris County, Texas

Article IV, Section 6 is deleted in its entirety and replaced with the following:

Section 6. Failure of the Committee to Act. If the Architectural Control Committee fails to approve or disapprove such plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that such committee has DENIED such plans and specifications.

EXECUTED this 23rd day of JANUARY, 2008 to evidence the certification herein.

TUSCANY COMMUNITY ASSOCIATION, INC.

By:

Jeff Day
Jeff Day, President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 23rd day of JANUARY, 2008, by Jeff Day, the President of TUSCANY COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation, on behalf of said corporation.

[Signature]
Notary Public -- State of Texas

ACCEPTED AND CONSENTED TO:

Toscana Partners, Ltd., a Texas limited partnership

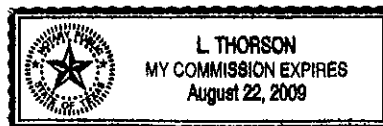
By: Spot Management, Inc., a Texas corporation,
Sole General Partner

By:

Name:

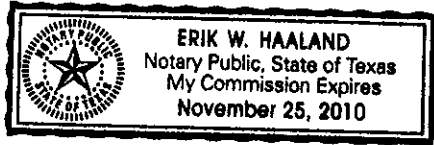
Title:

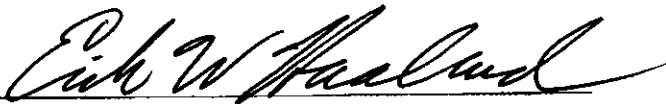
Jana Spontasiero



THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 4th day of December, 2008, by John Santasiero, the Vice-President of Spot Management, Inc., a Texas corporation, sole General Partner of Toscano Partners, Ltd., a Texas limited partnership, on behalf of said entities.

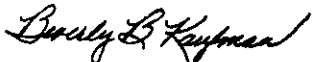



Notary Public – State of Texas

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas on:

FEB - 3 2009




COUNTY CLERK
HARRIS COUNTY, TEXAS

AFTER RECORDING, RETURN TO:

Mark K. Knop
Hoover Slovacek LLP
5847 San Felipe, Suite 2200
Houston, Texas 77057
HS File No. 122265-01

✓✓

RECORDER'S MEMORANDUM:
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts additions and changes were present at the time the instrument was filed and recorded.

HP 062-46-2699