



***AMENDED and CONSOLIDATED***  
***DECLARATION***  
***of***  
***COVENANTS, CONDITIONS***  
***AND RESTRICTIONS***  
***on and for the***  
***ARAGLIN COURT***  
***RESIDENTIAL COMMUNITY***  
***within***  
***DALLAS, DALLAS COUNTY, TEXAS***

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**PREAMBLE**  
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This AMENDED AND CONSOLIDATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ON AND FOR ARAGLIN COURT (sometimes referred to herein as the "Declaration") instrument is made and entered into on behalf of the owners of lots within the Araglin Court residential community by the undersigned members of the Araglin Court Homeowners Association, Inc. (the "Association") as of the 29<sup>TH</sup> day of APRIL, 2008:

THE PRIMARY PURPOSE OF THIS DOCUMENT IS TO AMEND AND REPLACE VARIOUS EXISTING DOCUMENTS.

The Araglin Court residential community includes a parcel of land which has been subdivided in accordance with a subdivision plat recorded at Volume 97006, Page 2780 of the Map Records of Dallas County, Texas. A "Declaration of Covenants for Araglin Court" was recorded on April 29, 1997, in Volume 97083, Page 05221 of the Public Real Estate Records of Dallas County, Texas. This 1997 Declaration was subsequently amended by:

- (a) Amendment to Declaration of Covenants for Araglin Court, filed on 2-3-03 and recorded in Volume 2003022, pages 1854-1872 of the Deed Records of Dallas County, Texas;
- (b) First Amendment to Bylaws of Araglin Court Homeowners Association, Inc. filed on 5-7-03 and recorded in Volume 2003088, Pages 2863-2865 of the Deed Records of Dallas County, Texas;
- (c) Second Amendment to Declaration of Covenants for Araglin Court, filed on 6-4-03 and recorded in Volume 2003107, Pages 2593-2596 of the Public Real Estate Records of Dallas County, Texas.

In accordance with the applicable amendment specifications, this Declaration arises out of: (i) substantial planning and studies conducted by the Association for more than six (6) months; (ii) a desire to have an updated, amended and consolidated document which comprehensively amends, restates and presents all of the updated, revised Araglin Court restrictive covenants in a single complete, comprehensive, convenient and easy-to-read format, rather than a tedious line-by-line recitation of amended language which would require the reader to have several sets of documents before him/her to piece together the effective language; (iii) resolutions passed by the Board of Directors of the Association; (iv) the consent and affirmative vote of the Members entitled to cast fifty-one percent (51%) of the votes of the Members of the Association entitled to vote who were present at a meeting duly called for such purpose, and the membership authorization for the Board of Directors and the President of the Association to execute, acknowledge, file and record this document in the public real estate records of Dallas County, Texas.

NOW, THEREFORE, in consideration of the preceding and in the best interests of the Araglin Court residential community, the following provisions are hereby adopted as the Amended and Consolidated Declaration of Covenants, Conditions and Restrictions on and for the Araglin Court residential community, hereby completely and comprehensively amending and consolidating all prior Araglin Court restrictive covenants:

## ARTICLE I -- CONCEPTS AND DEFINITIONS

The following words, when used in this Declaration or in any amended or supplementary Declaration (unless the context shall otherwise clearly indicate or prohibit), shall have the following respective concepts, definitions and meanings:

"Araglin Court" shall mean and refer to the residential community arising out of the development and improvement of the Properties with Dwelling Units and the use and occupancy of the Properties as a residential subdivision.

"Architectural Control Committee" ("ACC") shall mean and refer to the Architectural Control Committee established by these Covenants.

"Assessments" shall mean and refer to the regular annual assessments, the special group assessments, special individual assessments, individual assessments, transfer fees, and maintenance self-help fees as provided in Articles V and IX hereof.

"Association" shall mean and refer to the Araglin Court Homeowners Association, Inc., an existing non-profit Texas corporation which has the power, duty and responsibility of maintaining and administering certain portions of the Properties and all of the Common Properties, administering and enforcing the Covenants, and otherwise maintaining and enhancing the quality of life within the Araglin Court single-family residential community.

"Board" shall mean and refer to the Board of Directors of the Association.

"Bylaws" shall mean and refer to the Bylaws of the Association, as adapted and amended from time to time in accordance with the applicable provisions of the Texas Non-Profit Corporation Act and this Declaration.

"City" shall mean the City of Dallas, Texas, including, but not limited to all of its departments, regulations, ordinances and authority in all respects.

"Common Properties" shall mean and refer to any and all areas of land within or adjacent to the Properties which are known, described or designated as common areas, common green, common areas, private streets, street medians, parkways, gate and gate apparatus, perimeter fences and columns, off-site monuments and directional signs, landscape easements, greenbelts, open spaces and the like, including without limitation those shown on any recorded subdivision plat of portions of the Properties as well as those not shown on a recorded subdivision plat but which are intended for or devoted to the common use and enjoyment of the Members of the Association, together with any and all improvements that are now or that may hereafter be constructed thereon. The concept of Common Properties will also include any and all public right-of-way lands for which the City of Dallas has required that the Association expend private, non-reimbursable time and monies to care for and maintain, such as but not limited to: street medians, streetscape, and quasi-governmental service facilities. The Association shall at all times have and retain the right to effect minor redesigns or minor reconfigurations of the Common Properties (particularly along the edges) and to execute any open space declarations applicable to the Common Properties which may be permitted in order to reduce property taxes, and to take whatever steps may be appropriate to lawfully avoid or minimize the imposition of federal and state ad valorem and/or income taxes.

"Covenants" shall mean and refer to all covenants, conditions, restrictions, easements, charges and liens set forth within this Declaration.

"Declaration" shall mean and refer to this particular instrument entitled "Amended and Consolidated Declaration of Covenants, Conditions and Restrictions on and for Araglin Court Residential Community" (sometimes also referred to herein as the "Declaration") together with any and all amendments or supplements hereto.

"Deed" shall mean and refer to any deed, assignment, testamentary bequest, muniment of title or other instrument, or intestate inheritance and succession, conveying or transferring fee simple title or a leasehold interest or another legally recognized estate in a Lot.

"Design Guidelines" shall mean and refer to those particular standards, restrictions, guidelines, recommendations and specifications applicable to most of the aspects of construction, placement, location, alteration, maintenance and design of any improvements to or within the Properties, and all amendments, bulletins, modifications, supplements and interpretations thereof.

"Dwelling Unit" shall mean and refer to any building or portion of a building situated upon the Properties which is designated and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons.

"Exempt Property" shall mean and refer to the following portions of the Properties: (i) all land and Improvements owned by any one or more of the United States of America, the State of Texas, Dallas County, the City of Dallas, or any instrumentality, political subdivision or agency of any such governmental entity acting in a governmental (rather than a proprietary) capacity; (ii) all land and Improvements owned (including legal and beneficial ownership, whether now or in the future) by the Association or constituting a portion of the Common Properties; and (iii) all land and Improvements which are not only exempt from the payment of ad valorem real property taxes by the City of Dallas, Dallas County, and the State of Texas, but also are exempt from the payment of any assessments hereunder as expressly determined by written resolution of the Association.

"Front Yard" shall mean and refer to: (i) as to interior Lots, the front yard area of the residence between the street (on the one hand) and the dwelling exterior and fence (on the other hand) and (ii) as to corner Lots, the front yard area of the residence between the street (on the one hand) and the dwelling exterior and fence (on the other hand), and that portion of the side yard area exposed to the street, between the street (on the one hand) and the dwelling exterior and the fence (on the other hand), but excluding patios, courtyards and fenced areas, unless otherwise defined by the Board.

"Front Yard Maintenance" shall mean and refer to normal and routine maintenance of Front Yards as determined from time to time by the Board, including but not limited to: (i) mowing and edging Front Yards, (ii) trimming Front Yards with weed eaters, and (iii) fertilizing, trimming shrubbery, turning flower beds and applying insect control chemicals to Front Yards. Front Yard Maintenance shall not, in any event, include the trimming of trees, planting shrubbery, grass, trees or other landscaping, installing or maintaining irrigation systems, or any other maintenance or service determined by the Board to not be within normal and routine maintenance of Front Yards.

"Improvements" shall mean and include all buildings and roofed structures, parking areas, fences, walls, gates, poles, driveways, ponds, swimming pools, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, streets, drainage, utilities, roads, alley paths, and any new construction or exterior improvement significantly altering the appearance may be included in any of the foregoing. It also includes: private streets, utilities, garden shrubs, tree replacements and other landscaping; subdivision plats or maps to be recorded against the Properties or any portion thereof; both original improvements and all later changes and improvements.

"Institutional Mortgage" shall mean and refer to any bona-fide mortgage, lien or security interest held by a bank, trust company, insurance company, savings and loan association or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or their successors, or guaranteed or subsidized by the FHA and/or VA.

"Invitee" shall mean and refer to each and every individual not otherwise an Owner, Member or Resident who is within the Properties at the invitation of an Owner, Member, Resident or the Association, including without limitation: (i) friends and guests; (ii) third-party business invitees

such as (but not limited to) homebuilders, builders, contractors, repairmen, servicemen, deliverymen and their respective employees, agents and representatives; and (iii) real estate brokers and their customers. EACH AND EVERY INVITEE IS EXPECTED TO PROPERLY OBSERVE AND COMPLY WITH THESE COVENANTS.

"Landscape" shall mean and include: (i) trees, shrubbery, hedges, grass, ground cover, plants and flowers; and (ii) any significant change in the grade of any Lot from that existing at the time of initial approval by the Architectural Control Committee.

"Lot" shall mean and refer to any plot or tract of land shown upon any recorded subdivision map of the Properties which is shown as a lot thereon and which is or is to be improved with a residential dwelling.

"Member" shall mean and refer to each Owner who is in good standing with the Association and who has filed a proper statement of residency with the Association and who has complied with all directives and requirements of the Association. Each and every Owner shall and must take such affirmative steps as are necessary to become and remain a Member of, and in good standing in, the Association.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot but, notwithstanding any applicable theory of mortgages or other security devices, shall not mean or refer to any mortgagee or trustee under a mortgage or deed of trust unless and until such mortgagee or trustee has acquired title pursuant to foreclosure or any conveyance in lieu of foreclosure.

"Payment and Performance Lien" shall mean and refer to the lien described within Article V hereinbelow.

"Private Street" shall mean the area shown on the subdivision plat as Araglin Court, together with all alleys within the subdivision, and all pavement, curbs, street lights, signs and related facilities installed thereon. The Private Street is intended to be a private street owned as part of the Common Properties by the Association.

"Properties" shall mean and refer to each and all land areas described within the Subdivision.

"Resident" shall mean and refer to:

- (a) each owner of the fee simple title to any Lot within the Properties; and
- (b) each person lawfully residing on any part of any Lot (in compliance with the other provisions within this Declaration).

"Structure" shall mean and refer to: (i) any thing or device, other than Landscape, including but not limited to any building, garage, porch, shed, greenhouse or bathhouse, cabana, coop or cage, covered or uncovered patio, swimming pool, play apparatus, clothesline, fence, curbing, paving, wall, signboard or other temporary or permanent living quarters or any temporary or permanent Improvement to any Lot; (ii) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot; and (iii) any enclosure or receptacle for the concealment, collection and/or disposition of garbage, trash or refuse.

"Subdivision" shall mean and refer to the Araglin Court single-family residential subdivision of certain lands described within the maps and plats thereof filed of record in the Map and Plat Records of Dallas County, Texas, as well as any and all revisions, modifications, corrections or clarifications thereto.

"Trustee" shall mean and refer to that certain individual(s) or entity(ies) designated or appointed from time to time and at any time by the Association to perform the duties and responsibilities described within Article V below, and its successors and assigns.

## ARTICLE II -- PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Existing Property. The residential Lots which are subject to this Declaration are more particularly described within the Subdivision.

Section 2.02. Additions to Existing Property. Additional land(s) may become subject to this Declaration, or the general scheme envisioned by this Declaration, as follows:

(a) The Association may (without the joinder and consent of any person or entity) add or annex additional real property to the scheme of this Declaration by filing of record an appropriate enabling declaration, generally similar to this Declaration, which may extend the scheme of the Covenants to such property. Provided further however, such other declaration(s) may contain such complementary additions and modifications of these Covenants as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept and purpose of this Declaration.

(b) In the event any person or entity other than the Association desires to add or annex additional property and/or common property to the scheme of this Declaration, such annexation proposal must have the express approval of the Board.

Any additions made pursuant to this Section 2.02, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added and correspondingly subject the properties added to the covenants of the enabling declaration. Upon any merger or consolidation of the Association with another association, the Association's properties, rights and obligations may, by operation of law or by lawful articles or agreement of merger, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law or by lawful articles or agreement of merger, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants established by this Declaration, together with the covenants and restrictions established upon any other properties, as one scheme.

## ARTICLE III -- MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 3.01. Membership. Each and every Owner of each and every Lot which is subjected to these Covenants shall automatically be, and must at all times remain, a Member of the Association in good standing.

Section 3.02. Voting Rights. There shall be only one (1) class of voting Members in the Association: The Owner(s) of each Lot shall be entitled to one (1) vote per Lot. Where more than one (1) Owner owns and holds a record fee interest in a Lot, such Owner(s) should reach an agreement concerning the one (1) vote per Lot because fractional votes shall not be permitted. The Board shall have the right to adopt and implement rules and regulations pertaining to: (i) the manner of counting votes from Lots owned by two (2) or more individuals or entities; (ii) voting eligibility disputes; (iii) proxy votes; (iv) intermediate vote counts; and (v) the post-vote retention of proxies and ballots.

Any Owner, Resident or Member shall not be in "good standing" if such person or entity is:  
(a) in violation of any portion of these Covenants, the Design Guidelines, or any rule or regulation

promulgated by the Board; (b) delinquent in the full, complete and timely payment of any annual assessment, special assessment, or any other assessment fee, charge or fine which is levied, payable or collectible pursuant to the provisions of these Covenants, the Bylaws or any rule or regulation promulgated by the Board.

The Board may make such rules and regulations, consistent with the terms of this Declaration and the Bylaws, as it deems advisable, for: any meeting of Members; proof of membership in the Association; the status of good standing; evidence of right to vote; the appointment and duties of examiners and inspectors of votes; the procedures for actual voting in person or by proxy; registration of Members for voting purposes; and such other matters concerning the conduct of meetings and voting as the Board shall deem fit.

Section 3.03. Board of Directors. The affairs of the Association shall be managed by a board of individuals elected by the voting Members. The Articles and Bylaws of the Association may prescribe and control various matters pertaining to the Association Directors, including without limitation: qualifications, eligibility, nominations, terms, voting, vacancies, resignations and the like.

Section 3.04. Notice and Voting Procedures. Quorum, notice and voting requirements of and pertaining to the Association are set forth within the Articles and Bylaws, as either or both may be amended from time to time, and shall be in accordance with permitted Texas law, and are incorporated herein by reference for all purposes.

#### ARTICLE IV -- RIGHTS OF ENJOYMENT IN THE COMMON PROPERTIES

Section 4.01. Easement. Subject to the further provisions of this Article, each and every Owner in good standing with the Association shall have a non-exclusive right and easement of enjoyment in and to all Common Properties, and such easement shall be appurtenant to and shall pass with every Lot, provided the conveyance and transfer is accomplished in accordance with this Declaration. All Members and Residents in good standing with the Association shall have a non-transferable, non-exclusive privilege to use and enjoy all Common Properties for so long as they are in good standing with the Association.

Section 4.02. Extent of Members' Easements. The rights and easements of access, use, recreation and enjoyment created hereby shall be subject to the following:

(a) The right of the Association to prescribe reasonable regulations (e.g. speed limits on the street and limitations on parking on or in the street) and policies governing access to and use of the Common Properties, and to charge reasonable expense reimbursements and/or deposits (e.g., key, access card and/or radio transmitter device deposits) related to the access, use, operation and maintenance of the Common Properties;

(b) Liens or mortgages placed against all or any portion of the Common Properties with respect to monies borrowed by the Association to improve or maintain the Common Properties;

(c) The right of the Association to enter into and execute contracts with any party for the purpose of providing management, maintenance or such other materials or services consistent with the purposes of the Association and/or this Declaration;

(d) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure;

(e) The right of the Association to enter into and execute contracts with the owner-operators of any community antenna television system ("CATV") or other similar operations for the purpose of extending cable or utility or security service on, over or under the Common Properties to ultimately provide service to one or more of the Lots;

(f) The right of the Association to suspend the voting rights of any Member and to suspend the right of any Member or Resident to access, use or enjoy any of the Common Properties for any period during which any assessment (including without limitation "fines") against a Lot resided upon by such Member or Resident remains unpaid, or during which non-compliance with this Declaration or the Design Guidelines exists, and otherwise for any period deemed reasonable by the Association for an infraction of the then-existing rules and regulations and/or architectural guidelines;

(g) The right of the Association to grant permits, licenses and easements over the Common Properties for utilities, roads and other purposes necessary for the proper operation of utilities and services reasonable and necessary for the enjoyment of the residential homeowners.

Section 4.03. Restricted Actions by Members. No Member shall permit anything to be done on or in the Common Properties which would violate any applicable public law or which would result in the cancellation of or the increase of premiums for any insurance carried by the Association, or which would be in violation of any law or any rule or regulation promulgated by the Board.

Section 4.04. Damage to the Common Properties. Each Member shall be liable to the Association for any damage to any portion of the Common Properties caused by the negligence or willful misconduct of the Member or his family, Residents, guests and Invitees.

Section 4.05. Rules of the Board. All Owners, Members, Residents and Invitees shall abide by any and all rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner, Member, Resident or Invitee determined to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees.

Section 4.06. Use of Common Properties. The Board shall have the power and authority to prescribe rules and regulations applicable to the Common Properties. No person or entity shall use any portion of the Common Properties to:

- (a) solicit, promote or conduct business, religious, political or propaganda matters;
- (b) distribute handbills, newsletters, flyers, circulars or other printed materials,
- (c) display or install signs, flags or banners,

without the prior written consent of the Association (which consent may be withheld in its sole and absolute discretion).

Section 4.07. User Fees and Charges. The Board may levy and collect special charges and fees for any and all extraordinary operation and maintenance of the Common Properties and services which the Board determines to be necessary for the advancement, benefit and welfare of the Owners or Residents. Examples (by way of illustration, and not limitation) of these special charges and fees would include: additional gate and/or security personnel for parties or special events; valet parking arrangements; post-party trash pick-up and removal; extraordinary utility consumption; management overtime services; and additional insurance conditions or requirements. In establishing special user fees, the Board may formulate reasonable classifications of users. Such fees should be uniform within each class but need not be uniform from class to class. If an Owner shall fail to pay a charge or fee when due and payable, said unpaid charge or fee shall be delinquent and upon written notice to said Owner shall become a personal debt of said Owner and shall be secured by the Payment and Performance Lien described herein. Failure of any Owner to pay said fee and charge when due and payable, in addition, shall be a breach of these Covenants.

Section 4.08. Encroachments. If: (a) construction, reconstruction or repair activities which have been approved by the ACC; or (b) shifting, settlement or other movements of any portion of

ACC-approved improvements, results either in the Common Properties encroaching (minimally, and in no event more than six (6) inches) on a Lot or in a Lot encroaching (minimally, and in no event more than six (6) inches) on the Common Properties or on another Lot, and unless otherwise directed by the ACC, a valid easement shall then and there exist to permit the encroachment (minimally, and in no event more than six (6) inches) and reasonable and necessary maintenance activities related thereto.

Section 4.09. Private Street. The entry gate, street, sidewalks and alley network within the Araglin Court residential community are "private" and constitute a portion of the Common Properties which are subject to the jurisdiction and administration by the Association. In addition to the other provisions appearing within this Article, the Board of Directors of the Association is specifically authorized to recommend, adopt, implement and enforce rules, regulations, mechanisms and procedures governing use of the entry gate, sidewalks, street and alleys covering items such as (but not necessarily limited to):

- (a) identification and entry programs for Owners, Residents, Members, their respective immediate families, their guests and invitees and vehicles owned or driven by any of them;
- (b) speed limits, designated parking areas, restricted parking areas and no-parking areas;
- (c) signs and graphics to provide announcements to unauthorized personnel concerning potential criminal trespass matters;
- (d) a "fines" system through which the Association can levy and collect fines from its Members for violations of the applicable rules and regulations; and
- (e) disclaimers of liability for any and all matters or occurrences on or related to the Common Properties.

## ARTICLE V -- COVENANTS FOR ASSESSMENTS

Section 5.01. Creation of the Lien and Personal Obligation of Assessments. The Owner of each Lot hereby covenants and agrees, and each subsequent Owner of any 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 (and such covenant and agreement shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the Lot so as to have affected the purchase price) to pay to the Association (or to an independent entity or agency which may be designated by the Association to receive such monies):

- (1) annual assessments;
- (2) special group assessments, if, as and when established and collected from time to time as hereinafter provided in Section 5.04;
- (3) special individual assessments levied against individual Owners to reimburse the Association for extra or unusual costs incurred for items such as (but not limited to): maintenance and repairs to portions of the Common Properties caused by the willful or negligent acts of the individual Owner, Member, Resident or their Invitee(s); the remedy, cure or minimizing of problems caused by, or as a result of, violations of these Covenants by an Owner, Member, Resident or their Invitee(s);
- (4) individual assessments and fines levied against an individual Owner, Member, Resident or their Invitee(s) for violations of rules and regulations pertaining to the Association and/or the Common Properties; and

(5) in addition to regular assessments and special assessments, each Owner shall be obligated at the time of the purchase of a Lot by such Owner and simultaneously therewith, to pay to the Association the sum of Fifty Dollars (\$50.00) as a one-time acquisition and transfer fee to supplement the funds of the Association.

The annual, special group, special individual, individual assessments, fines, transfer fees, maintenance self-help expenses, and other charges and expenses described within this Declaration, together with such late charges, interest and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made and shall also be the continuing personal obligation of the then-existing Owner of such Lot at the time when the assessment fell due. Each Owner of each Lot shall be directly liable and responsible to the Association for the acts, conduct and omission of each and every Member, Resident and Invitee associated with such Owner's Lot.

Section 5.02. Purposes of Assessments. The assessments levied by the Association shall be used for the purposes of promoting the comfort, health, recreation, safety, convenience, welfare and quality of life of the Residents of the Properties.

Section 5.03. Basis and Amount of Annual Assessments. The annual assessment shall be determined as follows: Commencing with the year beginning January 1, 1997, and each year thereafter, the Board of Directors, at its annual meeting next preceding such, and each January 1 thereafter, shall set the amount of the annual assessment for the following year for each Lot, taking into consideration the current maintenance costs and the future needs of the Association, provided, that from and after January 1, 1998, in no event shall the annual assessment for each Lot which is subject to being assessed for any year exceed the annual assessment levied by the Board for the immediately preceding year by more than ten percent (10%) except only in the case of unusual or extraordinary costs and expenses to be paid by the Association as determined from time to time by the Board.

The annual assessment may not otherwise be increased without the assent of a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs (including without limitation, reasonable reserves) of the Association, fix the actual annual assessment for any year at a lesser amount.

Section 5.04. Special Group Assessments. In addition to the annual assessment authorized by Section 5.03 hereof, the Association may levy in any calendar year special assessment(s), applicable to that year only; provided that any such assessment(s) must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting called only for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance.

Section 5.05. Rate of Assessments. Both annual and special group assessments must be fixed at a uniform rate for all Lots.

Section 5.06. Date of Commencement of Assessments; Due Dates. The annual assessment shall be due and payable in full in advance on the first day of each month, or as otherwise determined by the Board of Directors, and shall, if not automatically paid within thirty (30) consecutive calendar days thereafter, automatically become delinquent. The Board shall use reasonable efforts to provide each Owner with an invoice statement of the appropriate amount due, but any failure to provide such a notice shall not relieve any Owner of the obligation established by the preceding sentence. The Board may (but is not required to), however, prescribe time-price differential payment schedules which would permit the collection of an amount greater than the annual assessment on a semi-annual, quarterly or monthly basis provided that the creditworthiness of the Owner was acceptable to the Board and the inconvenience to the staff of the Association and/or the Association's management company for additional invoicing and collection efforts was

minimized or eliminated. The Board may further prescribe: (a) procedures for collecting advance annual assessments and/or Lot transfer assessments from new Owners, Members or Residents out of "closing transactions"; and (b) different procedures for collecting assessments from Owners who have had a recent history of being untimely in the payment(s) of assessments.

Section 5.07. Duties of the Board of Directors with Respect to Assessments.

(a) In the event of a revision to the amount or rate of the annual assessment, or establishment of a special group assessment, the Board shall fix the amount of the assessment against each Lot, and the applicable due date(s) for each assessment, at least sixty (60) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association;

(b) Written notice of the applicable assessment shall be distributed or mailed (to the last known address) to every Owner subject thereto in accordance with the procedures then determined by the Board as being reasonable and economical; and

(c) The Board shall, upon reasonable request, furnish to any Owner originally liable for said assessment, a certificate in writing signed by an officer of the Association or its management company, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificate.

Section 5.08. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; and Remedies of Association.

(a) There has existed and shall continue to exist a self-executing and continuing contract Payment and Performance Lien and equitable charge on each Lot to secure the full and timely payment of annual, special group, special individual assessments, individual assessments, fines, transfer fees and all other charges and monetary amounts and performance obligations due hereunder. Such lien shall be at all times superior to any claim of homestead by or in any Owner. If any such assessment, charge or fine or any part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment, charge or fine shall (after the passage of any stated grace period) be considered delinquent and shall, together with any late charge and interest thereon at the highest lawful rate of interest per annum and costs of collection thereof, become a continuing debt secured by the self-executing Payment and Performance Lien on the Lot of the non-paying Owner which shall bind such Lot in the hands of the Owner and Owner's heirs, executors, administrators, devisees, personal representatives, successors and assigns. The Association shall have the right to reject partial payments of an unpaid assessment or other monetary obligation and demand the full payment thereof. The personal obligation of the then-existing Owner to pay such assessment, however, shall remain the Owner's personal obligation and shall not pass to Owner's successors in title unless expressly assumed by them. However, the lien for unpaid assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for any assessment provided herein by non-use of the Common Properties or abandonment of the Lot. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner;

(b) The Association may also give written notification to the holder(s) of any mortgage on the Lot of the non-paying Owner of such Owner's default in paying any assessment, charge or fine, particularly where the Association has theretofore been furnished in writing with the correct

name and address of the holder(s) of such mortgage, a reasonable supply of self-addressed postage prepaid envelopes, and a written request to receive such notification;

(c) If any assessment, charge or fine or part thereof is not paid when due, the Association shall have the right and option to impose a late charge (subject to any limitation prescribed by applicable law) to cover the additional administrative costs involved in handling the account and/or to reflect any time-price differential assessment schedule adopted by the Association. The unpaid amount of any such delinquent assessment, charge or fine shall bear interest from and after the date when due at the highest lawful rate of interest per annum until fully paid; however, the Association may, as a goodwill gesture, actually collect a lesser amount of interest as it deems appropriate. The Association may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid assessments, charges, fines and delinquent accounts, and there shall also be added to the amount of any unpaid assessment, charge, fine or any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association;

(d) The Association may, at its discretion, prepare and file a notice-of-lien in the public records of Dallas County, Texas which specifically identifies the unpaid assessments, charges or fines. Each Owner consents to these procedures and authorizes the Board to undertake such measures for the general benefit of the Association;

(e) All agreements between any Owner and the Association, whether now existing or hereafter arising and whether written or oral and whether implied or otherwise, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to the Association or for the payment or performance of any covenant or obligation contained herein or in any other document exceed the maximum amount permissible under applicable law. If from any circumstance whatsoever fulfillment of any provision hereof or of such other document at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance the Association should ever receive an amount deemed interest by applicable law which shall exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the actual assessment amount or principal amount owing hereunder and other indebtedness of the Owner to the Association and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of the actual annual assessment hereof and such other indebtedness, the excess shall be refunded to Owner. All sums paid or agreed to be paid by any Owner for the use, forbearance or detention of any indebtedness to the Association shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the interest charged, collected or received on account of such indebtedness is never more than the maximum amount permitted by applicable law. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between any Owner and the Association.

Section 5.09. Power of Sale. The lien described within the preceding Section is and shall be a contract Payment and Performance Lien. Each Owner, for the purpose of better securing each and all monetary obligations described within these Covenants, and in consideration of the benefits received and to be received by virtue of the ownership of real estate within the Properties, has granted, sold and conveyed and by these covenants does grant, sell and convey unto the Trustee with power of sale, such Owner's Lot. To have and to hold such Lot, together with the rights, privileges and appurtenances thereto belonging unto the said Trustee, and to its substitutes or successors, forever. And each Owner does hereby bind himself and/or herself, their heirs, executors, administrators and assigns to warrant and forever defend the Lot unto the said Trustee, its substitutes or successors and assigns, forever, against the claim, or claims of all persons claiming or to claim the same or any part thereof.

This conveyance is made in trust to secure payment of each and all assessments and other obligations prescribed by these Covenants to and for the benefit of the Association as the

Beneficiary. In the event of default in the payment of any obligation hereby secured (provided, however, that the Trustee and Beneficiary may not nonjudicially foreclose the lien for assessments or charges consisting solely of fines), in accordance with the terms thereof, then and in such event, Beneficiary may elect to declare the entire indebtedness hereby secured with all interest accrued thereon and all other sums hereby secured due and payable (subject, however, to any notice and cure provisions set forth in Section 51.002 of the Texas Property Code), and in the event of default in the payment of said indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or his/her/its successor or substitute as hereinafter provided, at the request of Beneficiary (which request is hereby conclusively presumed), to enforce this trust; and after advertising the time, place and terms of the sale of the Lot then subject to the lien hereof, and mailing and filing notices as required by Section 51.002, Texas Property Code, as then amended, and otherwise complying with that statute, the Trustee shall sell the Lot, then subject to the lien hereof, at public auction in accordance with such notices on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the Lot as an entirety or in such parcels as the Trustee acting may elect, and make due conveyance to the Purchaser or Purchasers, with general warranty binding upon the Owner, his heirs and assigns; and out of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, and then to Beneficiary the full amount of principal, interest, attorney's fees, trustee's fees, and other charges due and unpaid on said indebtedness secured hereby, rendering the balance of the sales price, if any, to the Owner, his heirs or assigns and/or to any other lienholders (if so required by applicable law); and the recitals in the conveyance to the Purchaser or Purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the Owner, his heirs and assigns.

It is agreed that in the event a foreclosure hereunder should be commenced by the Trustee, or its substitute or successor, Beneficiary may at any time before the sale of said property direct the said Trustee to abandon the sale, and may then institute suit for the collection of said indebtedness, and for the foreclosure of this contract Payment and Performance Lien; it is further agreed that if Beneficiary should institute a suit for the collection thereof, and for a foreclosure of this contract lien, that it may at any time before the entry of a final judgment in said suit dismiss the same, and require the Trustee, its substitute or successor to sell the Lot in accordance with the provisions of this section. Beneficiary, if it is the highest bidder, shall have the right to purchase at any sale of the Lot, and to have the amount for which such Lot is sold credited on the debt then owing. Beneficiary in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the indebtedness hereby secured has been paid in full, or until said Lot is sold hereunder, and each substitute and successor trustee shall succeed to all of the rights and powers of the original trustee named herein. In the event any sale is made of the Lot, or any portion thereof, under the terms of this section, the Owner, Members, Residents, and Owner's heirs and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the property so sold to the Purchaser at such sale, and in the event of his/her/their failure to do so he/she/they shall thereupon from and after the making of such sale be and continue as tenants at will of such Purchaser, and in the event of his/her/their failure to surrender possession of said property upon demand, the Purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which such property, or any part thereof, is situated. The foreclosure of the continuing contract lien on any one or more occasions shall not remove, replace, impair or extinguish the same continuing lien from securing all obligations arising from and after the date of foreclosure.

Section 5.10. Subordination of the Lien. The lien securing the payment of the assessments and other obligations provided for herein shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon any Lot whether

arising from or imposed by judgment or decree or by any agreement, contract, mortgage or other instrument, except for:

- (a) bona-fide first Institutional Mortgages;
- (b) liens for taxes or other public charges as are by applicable law made superior to the Association's lien; and
- (c) such other liens about which the Board may, in the exercise of its reasonable discretion, elect to voluntarily subordinate the Association's lien;

provided however, such subordination shall apply only to: (i) the assessments which have been due and payable prior to the foreclosure sale (whether public or private) of such Lot pursuant to the terms and conditions of any such first Institutional Mortgage or tax lien; (ii) the permitted lien on the Lot alone and not on or to any easement appurtenant for use and enjoyment of the Common Properties. Such sale shall not relieve such Lot from liability for the amount of any assessment thereafter becoming due nor from the lien of any such subsequent assessment. Such subordination shall not apply where the Institutional Mortgage or tax lien is used as a device, scheme or artifice to evade the obligation to pay assessments and/or to hinder the Association in performing its functions hereunder.

Section 5.11. Exemptions. The following property otherwise subject to this Declaration shall be exempted from any assessments, charge and lien created herein:

- (a) Common Properties; and
- (b) Exempt Property.

## **ARTICLE VI -- GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION**

Section 6.01. Powers and Duties. The affairs of the Association shall be conducted by its Board. The Board, for the benefit of the Association, the Properties, the Owners and the Members and Residents, may provide and may pay for, out of the assessment fund(s) provided for in Article V above, one or more of the following:

- (a) Care, preservation and maintenance of the Common Properties (including without limitation the proper maintenance of the private street) and the furnishing and upkeep of any desired personal property for use in or on the Common Properties;
- (b) Supplementing (to the extent, if any, deemed necessary, appropriate and affordable by the Board) the police, fire, ambulance, garbage and trash collection and similar services within the Properties traditionally provided by local governmental agencies;
- (c) Taxes, insurance and utilities (including, without limitation, electricity, gas, water, sewer and telephone charges) which pertain to the Common Properties;
- (d) The services of any person or firm to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, 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 of the Association. The Board is specifically authorized to hire and employ one or more managers, secretarial, clerical, staff and support employees. The Board is specifically authorized to engage personnel (such as ad valorem tax consultants and computer operators) and equipment (such as computers, software and electronic communication and transmission devices), and to purchase

and/or rent software and operating systems and the like for the administration of the collection of assessments described within the preceding Article V;

(e) Legal and accounting services, and all costs and expenses reasonably incurred by the Architectural Control Committee; and

(f) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

The Board shall have the following additional rights, powers and duties:

(g) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association;

(h) To enter into agreements or contracts with insurance companies, taxing authorities, the holders of first mortgage liens on the individual Lots and utility companies with respect to: (i) any taxes on the Common Properties; (ii) monthly escrow and impound payments by a mortgagee regarding the assessment, collection and disbursement process envisioned by Article V hereinabove; (iii) utility installation, consumption and service matters; and (iv) the escrow or impounding of monies sufficient to timely pay the annual assessment applicable to any Lot;

(i) To borrow funds to pay costs of operation, secured by such assets of the Association as deemed appropriate by the lender and the Association;

(j) To enter into contracts, maintain one or more bank accounts, purchase or invest in certificates of deposit, money market certificates, bonds and the like and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(k) To protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court on behalf of the Association and to provide adequate reserves for repairs and replacements;

(l) To make reasonable rules and regulations for the operation of the Common Properties and to amend them from time to time;

(m) To prepare an annual operating budget and to make available for review by each Owner within ninety (90) days after the end of each fiscal year an annual report;

(n) Pursuant to Article VII herein, 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;

(o) To purchase and/or lease any one or more real or personal properties, if deemed reasonable and appropriate by the Board (but purchases and/or leases of properties which require an expenditure greater than can be reasonably included in the current year operating budget shall require a vote of the Members);

(p) To contract with any Owner, Member or Resident for performance, on behalf of the Association, of services which the Association is 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 interests of the Association;

(q) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner, Resident, Member or Invitee for violation of such

provisions or rules. The Board is specifically authorized and empowered to establish (and to revise and amend from time to time) a monetary "fines" system which may include a due process hearing and a flat rate or discretionary range or geometric progression of fine amounts, which, if, as and when pronounced, shall constitute a permitted individual assessment secured by the continuing Payment and Performance Lien herein described.

Section 6.02. Liability Limitations. Neither any Owner/Member/Resident nor the directors and officers and managers of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association. Neither the Association nor its directors, officers, managers, agents or employees shall be liable for any actual, incidental or consequential damages for failure to inspect any private premises, private improvements or portion(s) thereof or for failure to repair or maintain the same.

Section 6.03. Reserve Funds. The Board may establish reserve funds which may be maintained and/or accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts or any other recognized bookkeeping or tax procedures in order to better demonstrate that the amounts deposited therein are capital contributions and not net or taxable income to the Association.

## **ARTICLE VII -- RIGHTS OF CERTAIN INSTITUTIONAL MORTGAGEES; INSURANCE; REPAIR; RESTORATION; COMMUNITY SERVICES ARRANGEMENTS**

Section 7.01. Rights of Institutional Mortgagees. The provisions within Sections 7.01 - 7.08 are for the primary benefit of:

(a) the owners and holders of Institutional Mortgages, including those which are required to satisfy the applicable requirements of FHA, VA, FNMA, FMLMC and other similar governmental, quasi-governmental and nationally recognized public and/or private sources of financing; and

(b) the insurers, guarantors, participants and subsidizers of the Institutional Mortgages.

To the extent applicable, necessary or proper, the provisions of this Article VII apply not only to this Declaration but also to the Articles of Incorporation and Bylaws of the Association. This Article is supplemental to, and not in substitution of, any other provisions of this Declaration, the Articles of Incorporation and Bylaws, but in the event of ambiguity or conflict, this Article shall control.

Section 7.02. Notices of Action. An Institutional Mortgagee who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and a reasonable description of the Dwelling Unit covered by the Institutional Mortgage) will be entitled to receive timely written notice of:

(a) any proposed termination of the Association;

(b) any condemnation loss or any casualty loss which affects a material portion of the Properties or which materially affect any Dwelling Unit on which there is an Institutional Mortgage held, insured or guaranteed by such Institutional Mortgagee;

(c) any delinquency in the payment of assessments or charges owed by an Owner of a Dwelling Unit subject to the Institutional Mortgagee, where such delinquency has continued for a period of sixty (60) days;

(d) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or

(e) any proposed action which would require the consent of the Institutional Mortgagees as required hereinbelow.

Section 7.03. Joinder to Documents.

(a) Institutional Mortgagees who have requested, in writing, the Association to notify them concerning any proposed action that requires the consent of a specified percentage of Institutional Mortgagees also have the right to join in the decision making about certain amendments to this Declaration. Amendments of a material nature (as defined below) shall be agreed to by: (i) at least sixty-seven percent (67%) of the Dwelling Unit Owners; and (ii) the Board of Directors of the Association, and (iii) Institutional Mortgagees representing at least fifty-one percent (51%) of the Dwelling Units that are subject to Institutional Mortgages. For the purposes of this paragraph, a substantive change to any of the following shall be the only matters considered as material:

- (i) voting rights;
- (ii) assessments, assessment liens, or subordination of assessment liens;
- (iii) expansion or contraction of the Properties, or the addition, annexation, or withdrawal of the property to or from the Properties;
- (iv) insurance or fidelity bonds;
- (v) imposition of any restrictions on a Dwelling Unit Owner's right to sell or transfer his or her Dwelling Unit;
- (vi) any action to terminate the legal status of the Properties after substantial destruction or condemnation occurs; or
- (v) any provisions that expressly benefit Institutional Mortgagees.

Additions or amendments such as the correction of a technical error or the clarification of a statement shall not be considered or construed as being "material."

(b) If and when the Dwelling Unit Owners are considering termination of the coverage of this Declaration over the Properties for reasons other than substantial destruction or condemnation, the Institutional Mortgagees representing at least sixty-seven percent (67%) of the mortgaged Dwelling Units in the Properties shall agree.

Section 7.04. Approval of Amendments. The failure of an Institutional Mortgagee to respond within thirty (30) days to any written request of the Association for approval of an addition or amendment shall constitute an implied written approval of the addition or amendment.

Section 7.05. Inspection of the Books. The Association shall have current copies of the Declaration, Articles of Incorporation, Bylaws, rules and regulations, books, records and financial statements available for inspection by Dwelling Unit Owners and by Institutional Mortgagees during normal business hours or under reasonable circumstances.

Section 7.06. Financial Statements. The Association shall provide any Institutional Mortgagee which submits a written request with a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant, at the expense of the Association, if any Institutional Mortgagee submits a written request for it. Except for the aforementioned audit of the Association's annual financial statement, no audit shall be performed by any other person or entity unless such audit is specifically requested of the Treasurer by a Dwelling Unit Owner in good standing. The Dwelling Unit Owner requesting the audit shall be solely responsible for the cost of the additional audit unless such additional audit reveals a material discrepancy resulting from a misappropriation or misuse of Association funds in which event the Association shall reimburse the Dwelling Unit Owner for the reasonable costs of the additional audit. Any additional audit requested by a Dwelling Unit Owner shall be performed during the regular business hours of the Association and shall be performed by a qualified accountant (who is not retained on a contingency basis) with a minimum of disruption to the Association's routine business affairs.

Section 7.07. Enforcement. The provisions of Sections 7.01 - 7.08 of this Article are for the benefit of Institutional Mortgagees and their successors and may be enforced by any of them by any available means, at law, or in equity.

Section 7.08. Attendance at Meetings. Any authorized representative(s) of an Institutional Mortgagee may attend and address any meeting of the Association which an Owner may attend.

Section 7.09. Right to Purchase Insurance. The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, any improvements thereon or appurtenant thereto, for the interest of the Association, its Board of Directors, officers, managers, agents and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as shall be deemed appropriate by the Board. Such insurance may include, but need not be limited to:

(a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs;

(b) Comprehensive public liability and property damage insurance on a broad form basis, including coverage of personal liability (if any) of the Board, Owners, Residents and Members with respect to the Common Properties;

(c) Fidelity bonds for all officers and employees of the Association having control over the receipt or disbursement of funds; and

(d) Liability insurance regarding the errors and omissions of directors, officers, managers, employees and representatives of the Association.

Section 7.10. Insurance and Condemnation Proceeds. Any proceedings, negotiations, settlements or agreements concerning insurance or condemnation relating to the Common Properties shall be handled by the Association. The Association may use the net insurance or condemnation proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance or condemnation. Any balance from the proceeds of insurance or condemnation paid to the Association, remaining after satisfactory completion of repair and replacement or after the Board has elected to waive the repair, restoration or replacement, shall be retained by the Association as part of a general reserve fund for subsequent repair and replacement of the Common Properties.

Section 7.11. Insufficient Proceeds. If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage to the Common Properties, the Association may levy a special group assessment as provided for in Article V of this Declaration to cover the deficiency.

Section 7.12. Community Arrangements. The Association has arranged for the employment and utilization of a mechanical crossing gate generally at the entry point to the Properties. The Association intends that the gate and private street concept will discourage undesired and unauthorized vehicular traffic within the Properties and foster a higher degree of peace and tranquillity. However, the Properties are not entirely encompassed by a fence nor are there any plans for such an enclosure. Also, the gate program is not designed to completely restrict or impede pedestrian traffic into, within or out of the Properties.

Although the Association reasonably believes that the existence and visibility of a controlled access point may discourage the commission of criminal acts (e.g., burglary, theft, etc.) within the Properties, nevertheless the Association does not warrant or guarantee that: (a) the gate arrangement is sufficient and adequate to diminish or eliminate the commission of crimes against persons or property; and (b) such acts will not be attempted or actually occur within the Properties.

These community arrangements are not designed or intended to replace the conventional police and fire protection and paramedical services available from the City of Dallas.

The Association may carry public liability insurance generally covering bodily injury and property damage arising out of negligent acts by employees, members or authorized representatives of the Association. The Association will not carry any insurance pertaining to, nor does it assume any liability or responsibility for, the real or personal property of the Owners, Residents and Members (and their respective family members, guests and invitees).

Each Owner, Resident and Member expressly understands, covenants and agrees with the Association that:

(a) The Association does not have any responsibility or liability of any kind or character whatsoever regarding or pertaining to the real and personal property of each Owner, Resident, Member and Invitee;

(b) Each Owner, Resident and Member should, from time to time and at various times, consult with reputable insurance industry representatives of each Owner's, Resident's and Member's own selection to consider, purchase, obtain and maintain appropriate insurance providing the amount, type and kind of insurance deemed satisfactory to each Owner, Resident and Member covering his or her real and personal property;

(c) Each Owner, Resident and Member releases and holds the Association harmless from any uninsured liability, claims, causes of action or damages of any kind or character whatsoever arising out of or related (directly or indirectly) to any and all aspects of the community system and private street within the Properties, including, without limitation:

- (1) the interviewing, hiring, training, licensing (if any), bonding (if any) and engagement of management and/or community services personnel;
- (2) the instructions, directions and guidelines issued to or by the management and/or community services personnel; and
- (3) the duties, performance, actions, inactions or omission of or by the management and/or community services personnel;

(d) Each Owner, Resident, Member and Invitee will cooperate with the Association in connection with the establishment, evolution and maintenance of reasonable controls on the pedestrian and vehicular traffic into and within the Properties and abide by any and all rules and regulations of the Association, as adopted and promulgated from time to time, related to the entry upon and use of the private street and other Common Properties within the Properties.

## ARTICLE VIII -- ARCHITECTURAL CONTROL

Section 8.01. Architectural Control. Architectural Control within the Properties shall be administered by the Architectural Control Committee ("ACC"), a committee of individuals appointed by the Board to assist in the creation, development, improvement, revision, supervision, oversight and implementation of special and particular architectural standards for the Properties.

Section 8.02. ACC Jurisdiction. No building, structure, fence, wall or improvement of any kind or nature shall be erected, placed or altered on any Lot until all plans and specifications have been submitted to and approved in writing by the ACC as to:

- (a) topographical plat showing the location of all improvements;
- (b) exterior elevations of all proposed buildings and structures;

- (c) a description of exterior materials, colors, textures and shapes of all buildings and structures;
- (d) a landscaping plan, including walkways, fences, and walls, elevation changes, watering systems, vegetation and ground cover, street furniture and sculpture;
- (e) roads, alleyways, parking areas and driveway plans;
- (f) screening, including size, location and method;
- (g) utility connections, including routing of electricity, gas, water, sanitary sewer and telephone cables;
- (h) exterior illumination;
- (i) any private streets or utilities to be built;
- (j) foundation borings and design;
- (k) trash container storage and related screening;
- (l) dimensional floor plan of all enclosed spaces, including one example of each residential type, each recreation or service building and any garages or parking facilities;
- (m) fire protection system;
- (n) structural design;
- (o) such other matters as may be required by the then applicable zoning code of the City or such other municipal or governmental authority having jurisdiction over the Lot;
- (p) signs, including size, shape, color, content, location, materials and illumination;
- (q) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, proper facing of main elevation with respect to nearby streets in accordance with this Declaration and/or the Design Guidelines and/or bulletins;
- (r) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping; and
- (s) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within the Design Guidelines, bulletins promulgated by the ACC, or matters in which the ACC has been vested with the authority to render a final interpretation and decision.

The ACC is authorized and empowered to consider and review any and all aspects of construction, location and landscaping, which may, in the reasonable opinion of the ACC, adversely affect the living enjoyment of one or more Owner(s) or Residents or the general value of the Properties. Also, the ACC is permitted to consider technological advances and changes in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the ACC.

\*\*\*\*\*  
 \* PRIOR TO ACQUIRING ANY INTEREST IN A LOT, \*  
 \* EACH PROSPECTIVE PURCHASER, TRANSFEREE, \*  
 \* MORTGAGEE AND OWNER OF ANY LOT IN \*  
 \* ARAGLIN COURT IS STRONGLY ENCOURAGED \*  
 \* TO CONTACT THE ASSOCIATION AND THE ACC \*  
 \* TO OBTAIN AND REVIEW THE MOST RECENT \*  
 \* DESIGN GUIDELINES WHICH MAY CONTROL \*  
 \* DEVELOPMENT, CONSTRUCTION AND USE \*  
 \* OF THE LOT. \*  
 \*\*\*\*\*

Section 8.03. Failure to Act. If the ACC fails to approve or disapprove such plans and specifications, or to reject them as being inadequate, within sixty (60) days after submittal thereof, it shall be conclusively presumed that such committee has approved such plans and specifications. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ACC may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance.

Section 8.04. Limitation of Liability. No approval of plans and specifications and no publication of requirements or guidelines herein or in the Design Guidelines or otherwise by the Association and/or the ACC can or should be construed as representing or implying that the improvements built in accordance therewith will be free of defects. Any approvals and observations incident thereto by the ACC shall generally concern matters of an aesthetic nature. Such approvals and guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be designed in a good and workmanlike manner. Neither the Association, the respective directors, officers, employees and agents, the ACC, nor any member of the ACC shall be responsible or liable for damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land subject to the Declaration for any defects in any plans and specifications submitted, revised, or approved, or for any loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, any loss or damage arising from the non-compliance of such plans or specifications with any governmental ordinance or regulation, nor any defects in construction undertaken pursuant to such plans and specifications. Approval of plans and specifications by the ACC is not to be construed as approval by the City of Dallas, Texas, as the approval processes are mutually exclusive. Unconditional approval of a complete set of plans and specifications by the ACC shall satisfy the requirements of all applicable provisions of this Declaration which require written approval by the ACC for such plans and specifications.

**ARTICLE IX -- USE OF LOTS IN ARAGLIN COURT;  
 PROTECTIVE COVENANTS**

The Araglin Court subdivision (and each Lot situated therein) shall be constructed, developed, occupied and used as follows:

Section 9.01. Residential Lots. All Lots within the Subdivision shall be used, known and described as residential Lots, unless otherwise indicated on the Subdivision plat. Lots shall not be further subdivided and, except for the powers and privileges herein reserved by the Association and ACC, the boundaries between Lots shall not be relocated without the prior express written consent of the ACC. No building or structure shall be erected, altered, placed or permitted to remain on any residential Lot other than one (1) single-family dwelling and, if any, its customary and usual accessory structures (unless otherwise prohibited herein). No more than eighteen (18) residential Dwelling Units shall be platted on the property. There shall be no more than six (6) residential Dwelling Units per acre. No building or structure intended for or adapted to business or commercial purposes shall be erected, placed, permitted or maintained on such premises, or any part hereof, save and except those related to development, construction and sales purposes of a bona-fide

homebuilder, or the Association. No Owner, Resident or Member shall conduct, transmit, permit or allow any type or kind of home business or home profession or hobby on any Lot or within any Dwelling Unit which would: (i) attract automobile, vehicular or pedestrian traffic to the Lot; (ii) involve lights, sounds, smells, visual effects, pollution and the like which would adversely affect the peace and tranquility of any one or more of the Residents within the Subdivision. The restrictions on use herein contained shall be cumulative of, and in addition to, such restrictions on usage as may from time to time be applicable under and pursuant to the statutes, rules, regulations and ordinances of the City of Dallas, Texas or any other governmental authority having jurisdiction over the Subdivision.

Section 9.02. Primary Residence. By acquisition of any Lot within the Properties from and after May 1, 2008, each Owner covenants with and represents to the Association that the Lot is being specifically acquired for the specific and singular purpose of constructing and using a residential dwelling thereon:

(i) as a primary residence for such Owner and/or Owner's immediate nuclear family members; or

(ii) if Owner is a business entity or trust, as a primary residence for an existing officer, director, key employee, substantial shareholder, general partner or beneficiary of the Owner (as identified and designated to the Association), to be occupied as such and **not** for the purpose of investment, speculation, leasing, renting, corporate retreat, hospitality suite, or other similar disposition; and

(iii) each Owner agrees and covenants that no speculation, leasing, renting, corporate retreat or hospitality suite use(s) shall occur on any Lot.

Section 9.03. Floor Space. The main dwelling area (living space) of every residence in Araglin Court shall contain a minimum floor area of 2,200 square feet for a single story home and 2,650 square feet, with a minimum 2000 square feet on the first floor, for a two-story home. This main dwelling area (living space) shall have a maximum of 4,200 square feet of air conditioned floor area exclusive of all porches, garages, terraces or breezeways attached to the main dwelling. The ACC may grant a ten percent (10%) variance to the minimum floor area. The variance must be approved in writing by the ACC.

Section 9.04. Garages; Parking. Each single-family residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) but not more than four (4) conventional automobiles, unless otherwise specifically approved by the ACC. Although each Lot shall also have a minimum of one (1) off-street parking space, each Owner, Member and Resident shall use their respective best efforts to park and store their automobiles within the garage. No garage door may be left open for any extended period of time. Any and all proposed garage plans and specifications must be submitted to the ACC for review and approval. Each Owner, Resident, Member and Invitee shall use their respective best efforts (such best efforts being defined as fully utilizing all garages to park and store the number of automobiles for which they were designed) to refrain from habitually parking any automobile or vehicle on: (i) the street; and on (ii) any Lot outside of an approved garage area between any Dwelling Unit and the abutting front street or between any Dwelling Unit and an abutting side street.

No Owner, Resident or Member shall perform, permit or allow repair or maintenance work to any automobile or other vehicle outside the garage and visible to the abutting street(s), or any neighbor's property. Under no circumstances or conditions shall any automobile or other vehicle be parked on a non-paved portion of any Lot.

Section 9.05. Height Limitations. No building or structure on any Lot shall exceed two (2) stories in height or thirty-six feet (36') as the terms "story" and "height" are determined by various, applicable ordinances or rules of the City of Dallas.

Section 9.06. Building Design Guidelines. The Improvements will be constructed in accordance with the following guidelines unless otherwise allowed by the ACC:

(a) Exterior wall materials. Exterior wall materials on all buildings on any Lot shall be limited to seventy-five percent (75%) masonry facades. Decorative door and window treatments on facades, visible from the street, may be executed in stone, cast stone, wood or iron. No more than three exterior materials may be used in the same structure. Metal or asbestos siding shall be prohibited. Specific colors and quality of all types of masonry wall materials shall be subject to the approval of the ACC.

(b) Window and door materials. Windows and doors shall be of wood, vinyl covered wood, vinyl, or high-grade finished aluminum or iron construction with masonry or cast stone headers, sides and sills. Metal sliding glass doors may be used where screened by garden walls and not visible to the public.

(c) Roof materials. Roof materials shall be 30 year or greater composite, slate, metal formed to the appearance consistent with slate, tile or shingle or imitation slate. Roof tiles may be used if approved by the ACC for compatibility with the prevailing roof materials used in the Subdivision.

(d) Garden walls, courtyard walls, and screening walls. Any garden wall, courtyard and/or screening wall must be constructed of the same masonry or stone as the residence to which it is an appurtenance. Wrought iron may be used in conjunction with masonry or stone in courtyard and garden walls. Courtyard and garden walls shall be at least eight feet (8') tall in any area visible from the street. The front of each residence shall be joined by a wall to the fence or wall of the residence immediately adjacent to it so there will be no open side yards.

(e) Lighting. Each entry, courtyard, gateway, front door and garage door shall be lit by surface or pole mounted light fixtures. All required light fixtures, including any required tree lights, shall be on a timer or an automatic electric eye to insure night time illumination in the front of each residence.

(f) Down spouts. All homes must be fully guttered.

(g) Signs and house numbers. In the interest of graphic continuity, the ACC shall approve and detail house number material, style, size, mounting height and general location for use in the property or subarea of the property. Additional graphics shall be prohibited in locations where they can be seen from the street.

(h) Detached buildings; design. All detached buildings, such as workrooms and garages, shall have the same architectural style and color treatment as the main residence.

(i) Plate height. All residences shall have a minimum nine foot (9') plate height along the front building line, except for the garage, which may have an eight foot (8') plate height.

(j) Landscaping matters. Landscaping matters which shall be implemented:

(i) Landscaping shall be included in all areas of the Lot not occupied by improvements including areas within unpaved street rights-of-way.

(ii) At least one (1) tree shall be provided for each Lot, such tree(s) to be located between the dwelling on such Lot and the street, unless otherwise approved by the ACC.

(iii) The trees mentioned in (ii) above, shall be a Live Oak, Red Oak, Cedar Elm, or Sweet Gum, or others as may be approved by the ACC, having a minimum caliper of four inches.

(iv) Only grass shall be permitted in the front areas adjacent to the street and shall be installed from the streetwalk to within four feet (4') of the front of the building line and any retaining walls required for construction and must be St. Augustine unless otherwise specified by the ACC.

(v) An underground irrigation system shall be required for all exterior landscaping.

(vi) The landscaping approved by the ACC shall be installed within sixty (60) days following completion of the Dwelling Unit on the Lot.

(vii) Any damage to improvements and/or landscaping in the Common Properties shall be restored or replaced by that person responsible for said damage. Any destruction to trees in the common area shall result in the damaging party replacing said tree with a like kind and size.

(k) Walkways, driveways and patios. Walkways, driveways and patios visible from the street may be finished in any single use or mixture of the following materials: (a) interlocking concrete pavers; (b) brick paver; (c) exposed aggregate; and/or (d) patterned concrete.

(l) Exterior Color. Samples of all exterior colors and stains intended for use on structures must be submitted to the ACC for approval.

Section 9.07. Fences; Signs. No fence, wall or hedge (which serves as a barrier) shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line as established by the Design Guidelines or the ACC. All exterior mechanical or service equipment must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street. No fence, wall or hedge (which is not within three feet (3') of the Dwelling Unit exterior walls) shall be erected, placed or altered on any Lot without the approval of the ACC. No sign or signs shall be displayed to the public view on any Lot, except:

(a) any bona fide homebuilder, during the applicable initial construction and sales period, may utilize one (1) professional sign [of not more than twenty-five (25) square feet in size], at a location approved by the ACC, for model home advertising and sales purposes;

(b) thereafter, a dignified "For Sale" sign [of not more than five (5) square feet in size] may be utilized by the Owner of the respective residential Lot for the applicable sale situation; and

(c) development-related signs owned or erected by the Association shall be permitted.

The Association shall have the right and privilege to develop and implement uniform signage specifications and requirements applicable throughout the Subdivision.

Section 9.08. Easements; Utilities. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded subdivision plats. Utility service may be installed along or near the front and/or side and/or rear Lot lines and each Lot Owner shall have the task and responsibility of determining the specific location of all such utilities. Except as may be otherwise permitted by the ACC (e.g. fencing, flatwork, landscaping, etc. but the ACC does not guarantee the right and opportunity of such uses), no Owner shall erect, construct or permit any obstructions or permanent improvements of any type or kind to exist within any easement area, nor shall anything be done or permitted within an easement area which would restrict or adversely affect drainage. Electrical (and possibly other utility) easements are likely to be located at or near or along the rear lot line(s), and each Lot Owner assumes full, complete and exclusive liability and responsibility for all cost and expense related to damage, repair, relocation and restoration of such improvements or fence. Except as to special street lighting or other aerial facilities which may be required by the City of Dallas or which may be required by the franchise of any utility company or which have been installed pursuant to the original development plan, no

above-ground utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed within the Subdivision whether upon individual Lots, easements, street or rights-of-way of any type, either by the utility company or any other person or entity, including, but not limited to, any person owning or acquiring any part of the Subdivision, and all utility service facilities (including, but not limited to, water, sewer, gas, electricity and telephone) shall be buried underground unless otherwise required by a public utility. All utility meters, equipment, air conditioning compressors and similar items must be visually screened and located in areas designated by the ACC. The Association or the ACC shall have the right and privilege to designate the underground location of any CATV-related cable.

Each Owner shall assume full and complete responsibility for all costs and expenses arising out of or related to the repair, replacement or restoration of any utility equipment damaged or destroyed as a result of the negligence or mischief of any Resident or Invitee of the Owner. Each Owner agrees to provide, at the sole cost and expense of each Owner, such land and equipment and apparatus as are necessary and appropriate to install and maintain additional lighting and security-related measures which become technologically provident in the future.

Section 9.09. Temporary Structures and Vehicles. No temporary structure of any kind (excluding children play equipment) shall be erected or placed upon any Lot. Temporary structures shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling. No pickup, travel trailer, motor home or any other type of recreational vehicle or mobile home shall at any time be used as a residence or office, temporarily or permanently.

Any commercial vehicle, vehicle displaying a conspicuous sign, truck (over 3/4 ton but excluding conventional vans, sport utility vehicles and pickups), bus, boat, boat trailer, trailer, mobile home, golf cart, motorcycle, recreational vehicle, campmobile, camper and any vehicle other than a conventional automobile shall, if brought within the Subdivision by or on behalf of any Owner, Member or Resident, be stored, placed or parked within the enclosed garage on the appropriate Lot. Trucks with tonnage in excess of one and one-half (1 ½) tons or any vehicle with painted advertisement shall not be permitted to park overnight on the street, driveways, or otherwise within the Subdivision at any time; and no vehicle of any size which transports toxic, inflammatory or explosive cargo may be kept in the Subdivision at any time.

Section 9.10. Offensive Activities: Pets. No noxious or offensive activity or pollution emitting sight/sound/smell, as determined by the Association, shall be conducted or permitted on any portion of the Properties. The lighting of swimming pools, trees, grounds and structures shall be permitted only where such lighting does not infringe upon the privacy of adjacent Lot Owners. No direct sales activities (excluding, however, activities of bona-fide homebuilders and community activities specifically approved by the Board), garage sales, yard sales, patio sales, flea markets, bazaars, sample sales, promotional dinner parties or similar activities shall be conducted on any portion of the Properties.

Any noise or odor emitted by, and any discharge or waste from, any animal (including without limitation dogs and cats) which can be seen, heard or smelled outside the perimeter of the subject Owner's (or Member's or Resident's) Lot shall be deemed noxious and offensive and is therefore prohibited. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential Lot, except that dogs, cats or other household pets may be kept (in accordance with applicable municipal law), provided that they are not kept, bred or maintained for commercial purposes and they are not noxious, offensive, vicious or dangerous (e.g. pit bull terriers shall not be permitted within the Properties). Any outside pen, cage, kennel, shelter, concrete pet pad, run, track or other building, structure or device directly or indirectly related to animals which can be seen, heard or smelled by anyone other than the subject Lot Owner must be approved by the Board in its sole and absolute discretion. Each and every dog, cat or other household pet, if not kept and confined within a portion of the Owner's/Resident's/Member's Lot, must be leashed and accompanied by its corresponding Owner/Resident/Member, particularly when traveling beyond

the perimeter of the Owner's/Resident's/Member's Lot, and such Owner/Resident/Member shall promptly clean and remove the discharge and waste of any pet.

Section 9.11. Exterior Surfaces; Antenna. The ACC is specifically authorized to require a continuous, uniform appearance with respect to all improvements (e.g. a wrought-iron fence) which directly face perimeter common green area. Installation of all types of exterior items and surfaces such as address numbers or external ornamentation, outdoor illumination, lights, mail chutes, exterior paint or stain and the like shall be subject to the prior approval of the ACC. Each Owner shall keep and maintain the quality and appearance of all exterior surfaces, particularly those areas covered by an approved paint or stain, in good repair, condition and appearance. No basketball goals shall be affixed or installed on or over the garage and visible from the street, unless specifically approved in writing by the ACC.

Reference is made to the following types of antenna:

(a) an antenna that is designed to receive direct broadcast satellite service (including direct-to-home satellite services) ("DBS"); and

(b) an antenna that is designed to receive programming service via multipoint distribution services (including multichannel multipoint distribution services, instructional television fixed services and local multipoint distribution services) ("MMDS").

Any and all: (i) DBS and/or MMDS antennas which is/are more than one meter in diameter or diagonal measurement; and (ii) antenna and devices designed to transmit signals and programming, must be installed so that they are not visible from any street. Any and all DBS and/or MMDS antennas which are one meter or less in diameter or diagonal measurement should be installed so that they are not visible from any street, but in the event that such placement does not permit reception of an acceptable quality signal then such antenna may be otherwise located provided that it is reasonably painted in a fashion so that it blends into the background against which it is mounted.

Section 9.12. Site Maintenance; Garbage and Trash Collection. Lot Owners and Invitees (particularly homebuilders) shall have the duty and responsibility to keep construction sites (and adjacent lots, parcels and common areas if their rubbish shall be blown, carried or left in these locations) free of rubbish on a daily basis with the adjacent street (to the crown) scraped clear of any mud accumulation. Lot Owners and Invitees (particularly homebuilders) will not be allowed to store any excavation of soil on streets or adjacent sites. Soil runoff due to rain or irrigation must be removed promptly from streets and sidewalks by the Lot Owner and Invitees (particularly homebuilders).

All garbage and trash shall be kept in plastic bags or other containers required by (and meeting the specifications of) the City of Dallas. Each Owner, Member and Resident shall observe and comply with any and all regulations or requirements promulgated by the Association and/or the City of Dallas in connection with the storage and removal of trash and garbage, particularly where the collection point is in front of the residential Dwelling Units. No residential Lot, or any portion of the Common Properties or any public right-of-way area, shall be used or maintained as a dumping ground for rubbish, trash or garbage. No Owner, Member or Resident shall dump grass clippings, landscape debris, garbage or trash of any kind on another Lot. Each Owner, Member and Resident shall have the duty and responsibility, at their sole cost and expense, of keeping parking areas, driveways, sidewalks, mailboxes, private lamp posts, landscaping and sprinkler systems (if such improvements are located on or adjacent to the Lot and were constructed by the homebuilder or homeowner of the Dwelling Unit) in good repair and appearance.

Section 9.13. Landscaping. Construction of each and every residential dwelling within the Properties shall include the installation and placement of appropriate landscaping. Each Lot on which a residential dwelling is constructed shall have and contain an underground water sprinkler system for the purpose of providing sufficient water (to preserve and maintain the landscaping in

a healthy and attractive condition) to all yard areas. Except for the landscaping maintenance responsibilities of the Association, each Owner, Member and Resident of any Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep and maintain the Lot, and all improvements therein and thereon, in a well maintained, safe, clean, healthy and attractive condition at all times. Such maintenance shall include (without limitation):

- the proper seeding, fertilizing, consistent watering, mowing and edging of: (i) all lawns which can be seen from any street, or any neighbor's house; and (ii) all median and parkway areas adjacent to each Lot;
- the appropriate pruning and cutting of all trees and shrubbery;
- prompt removal of all litter, trash, refuse and waste;
- watering of all landscape;
- keeping exterior lighting and mechanical facilities in working order;
- keeping lawn and garden areas alive, free of weeds and insects, and attractive;
- keeping driveways, sidewalks and medians in good repair and condition;
- promptly repairing any exterior damage;
- complying with all governmental health and police requirements,

all in a manner and with such frequency as is consistent with aesthetics, safety and good property management.

Section 9.14. Maintenance Self-Help. The Association must maintain the Common Properties, Front Yards and Private Street. Each Lot Owner shall maintain the non-Front Yard areas associated with his Lot, the fences bounding such private area, and the exterior of his Dwelling 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 Dwelling Unit to deteriorate in an unattractive manner. The drying of clothes on Front Yards is prohibited and the Owner of any Lot at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the 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.

If more than five (5) days after prior written notice (but in no event shall the Association be required to issue more than two (2) such written notices per year, non-cumulative from year to year) an Owner shall fail to: (i) control weeds, grass and/or other unsightly growth; (ii) remove trash, rubble, building and construction debris; or (iii) exercise reasonable care or conduct to prevent or remedy an unclean, untidy or unsightly condition, then the Association or its agents and subcontractors shall have the authority and right to go onto said Lot (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) for the purpose of taking such action as may be necessary to remedy or abate the violation or problem, including (without limitation) mowing, cleaning, chemical and/or manual treatment and removal of weeds, fertilizing, watering, and otherwise maintaining said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a reasonable charge for such maintenance on said Lot on each respective occasion of such mowing, cleaning, edging, trimming shrubs, planting sod, watering grass, treating fire ant mounds, or whatever other site-maintenance activity is deemed reasonable and appropriate. The Association shall have the right to operate each sprinkler, or require the Lot Owner to do so, in conjunction with an appropriate maintenance plan although the respective Lot Owner shall bear all costs and expenses related to the water consumption arising from its operation. The assessments, together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be secured by the continuing Payment and Performance Lien upon each Lot against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the assessment occurred.

Section 9.15. Other Restrictions.

(a) Removal of dirt. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as necessary with landscaping, drainage or construction of improvements thereon.

(b) Swimming pools. No above ground swimming pools shall be permitted.

(c) External sculpture and like accessories. All exterior sculptures, fountains, flags and like accessories on the Lots are subject to approval by the ACC.

(d) Construction period. Once commenced, construction shall be diligently pursued (but in no event more than eight [8] months) to the end that it may not be left in a partially completed condition any longer than reasonably necessary. No Dwelling Unit shall be occupied as a residence until it is completed in accordance with the provisions of this Declaration.

(e) Drilling. No oil drilling, oil development operations, oil relining, gas wells, water wells, geothermal activities, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, shafts, gas wells, water wells or geothermal activities be permitted upon any Lot. No derrick or other structure designed for use in oil, natural gas, mining, gas wells, water wells or geothermal activities shall be erected, maintained or permitted upon any Lot.

(f) Mail boxes. Curbside mail boxes shall be mounted into masonry structures, unless otherwise approved by the ACC.

(g) Entrance to Property. Vehicular and other public access to and from Araglin Court shall be permitted only at one entry area at Breckenridge Drive.

(h) Visual obstruction at the intersection of streets. No object, including vegetation, shall be permitted on any corner Lot which either (1) obstructs reasonably safe and clear visibility of pedestrian or vehicular traffic through sight lines parallel to thirty inches (30") above the roadways, or (2) 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 feet (20') back along the curb on the two intersecting streets abutting said corner Lot, and the third point being the center of the corner curb abutting said Lot.

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

**ARTICLE X -- EASEMENTS AND TELECOMMUNICATION SERVICES**

Section 10.01. Utility Easements. If they do not otherwise exist, non-exclusive easements for installation, maintenance, repair and removal of utilities and drainage facilities over, under and across an area not less than two feet (2') nor more than five foot (5') wide perimeter of each Lot are reserved by the Association, and all utility and CATV companies and their respective successors and assigns, serving the Properties.

Section 10.02. Sign Easements. The Association shall have the right, privilege, duty and responsibility to reasonably maintain and care for any and all signs, monuments, landscaping and

the like installed or placed on any "sign easement area" depicted within the Araglin Court subdivision Plat(s).

Section 10.03. Ingress, Egress and Maintenance by the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon the setback and sign easement areas applicable for each Lot for the carrying out by the Association of its functions, duties and obligations hereunder; provided, however, that any such entry by the Association upon any Lot shall be made with as little inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Association at the expense of the Association's maintenance fund.

Section 10.04. Additional Easements. Additional easements are granted and/or reserved as follows:

(a) Maintenance and repair easement. An easement three feet (3') wide running from the front Property line to the rear Property line along the non-zero Lot side property line of each Lot is hereby created for the benefit of the Owner of an adjoining Lot. Said easement shall exist only during daylight hours for reasonable periods of time necessary to accomplish maintenance and repairs associated with the zero-Lot side improvements on the adjoining Lot. Each Lot Owner shall provide a gate of a minimum of three feet (3') in width at the rear or front of the residence. In the event any Owner benefitted by this easement should damage any property of the Owner whose Lot is burdened with this easement, such Owner so damaging the property shall repair such damage within ten (10) days of the occurrence thereof.

(b) Temporary construction easement. An easement is hereby created over the same land described in Section 10.04(a) above for the express purpose of aiding in the construction of improvements on adjacent Lots or reconstruction of improvements on adjacent Lots. Upon completion of construction, the builder or Owner of the Lot benefitted by the easement shall repair all damage, including damage to existing landscaping, which occurred during construction, all such repairs to be performed within ten (10) days of completion of construction.

(c) Patio easement. An easement is created over the one foot or more area between the zero Lot line side property line of each Lot and the zero Lot line side exterior wall on such Lot for the benefit of the adjacent Lot whose non-zero Lot line side faces such easement area. Such easement shall be for the purpose of landscaping, or the installation of a patio and/or privacy wall and such area may be fully used and enjoyed by the Owner of the Lot benefitted by such easement, subject to the rights of the Owner of the Lot burdened by this easement. The Owner of the Lot benefitted by such easement shall be responsible for the maintenance of said easement.

Section 10.05. Telecommunication Services. The Association, with the prior approval of the Board of Directors, may provide, either directly or by contracting with other parties, various telecommunication services to the Lots and Common Properties within the Properties. The Board of Directors of the Association shall have the sole discretion to determine whether or not such telecommunication services are provided, the types of services to be provided, the manner in which such services will be provided, the amounts to be charged, and the method of paying for such services.

## ARTICLE XI -- RIGHTS OF THE CITY OF DALLAS

Section 11.01. Maintenance Obligations. The City of Dallas shall have the right (but not the duty) to perform the maintenance obligations of the Association if the Association fails to reasonably perform its maintenance obligations, and the Association fails to reasonably perform its maintenance obligations within ten (10) days after receipt by the Association of written notice from the City of Dallas stating the nature and extent of the Association's failure to maintain common areas.

Section 11.02. Assessments.

(a) Upon assuming the maintenance obligation, the City of Dallas may levy and collect all assessments.

(b) If the City of Dallas assumes the maintenance obligation, the Association may not collect any assessments, and shall have no authority to perform the maintenance obligation. The Association may collect assessments and resume its duties to maintain the common areas when it presents to the City of Dallas substantial evidence of its willingness and ability to resume its maintenance obligation.

Section 11.03. Indemnity. If the City of Dallas assumes the maintenance obligation, said City shall have the right of access to maintain the common areas. The Association shall indemnify and hold the City of Dallas harmless from any and all costs, expenses, suits, demands, liabilities, damages, or otherwise including attorney's fees and costs of suit, in connection with said City maintaining the common areas.

Section 11.04. Termination by City Council. The Dallas City Council, after recommendation by the City Plan Commission, may, by resolution filed in the Deed Records, terminate this agreement if the Council finds physical condition of the Property and the surrounding area have substantially changed to warrant the termination of this agreement. Notice of such public hearings shall be given as would be required by law for a zoning change, except that the area of notification is hereby limited to the area described as the "Plat".

**ARTICLE XII -- GENERAL PROVISIONS**

Section 12.01. Registration with the Association. In order that the Association can properly acquaint every Lot purchaser and every Owner, Resident and Member with these Covenants and the day-to-day matters within the Association's jurisdiction, no acquisition of any Lot within the Subdivision shall become effective until and unless:

(a) the then-existing closing-related documents have been properly executed by the Association and the Purchaser/Transferee; and

(b) all directives by, and all obligations to, the Association have been properly and timely satisfied.

Each and every Owner, Member and Resident shall originally provide, and thereafter revise and update, within thirty (30) days after a material change has occurred, various items of information to the Association such as: (a) the full name and address of each Owner, Member and Resident; (b) the description and license plate number of each automobile owned or used by a Resident and brought within the Properties; (c) the name, address and telephone numbers of other local individuals who can be contacted (in the event the Resident cannot be located) in case of an emergency; and (d) such other information as may be reasonably requested from time to time by the Association. In the event any Owner, Member or Resident fails, neglects or refuses to so provide, revise and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner, Member and Resident shall become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

Section 12.02. Power of Attorney. Each and every Owner, Member and Resident hereby makes, constitutes and appoints the Association as his/her true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her and in his/her name, place and stead and for his/her use and benefit, to do the following:

(a) to sign, execute, acknowledge, deliver and record any and all instruments which make technical corrections to the terms within this Declaration as the Association shall deem necessary, proper and expedient under the circumstances and conditions as may be then existing; and

(b) to sign, execute, acknowledge, deliver and record any and all instruments which make technical corrections to the subdivision plat(s) of the Properties as the Association shall deem necessary, proper and expedient under the conditions as may then be existing.

Section 12.03. Duration. The Covenants of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for an original term of twenty-five (25) years, after which time these Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the Owners of at least fifty-one percent (51%) of all Lots within the Properties and recorded in the Deed Records of Dallas County, Texas, which contains and sets forth an agreement to abolish these Covenants.

Section 12.04. Amendments. The Covenants set forth herein are expressly subject to change, modification and/or deletion by means of amendment at any time and from time to time with the consent of at least fifty-one percent (51%) of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance. Any and all amendments shall be recorded in the Office of the County Clerk of Dallas County, Texas.

Section 12.05. Enforcement. Each Owner of each Lot shall be deemed and held responsible and liable for the acts, conduct and omission of each and every Resident, Member, guest and invitee affiliated with such Lot, and such liability and responsibility of each Owner shall be joint and several with their Resident(s), Member(s), guests and invitees. The Payment and Performance Lien shall extend to, cover and secure the proper payment and performance by each and every Resident, Member, guest and invitee affiliated with each Owner. Unless otherwise prohibited or modified by law, all parents shall be liable for any and all personal injuries and property damage proximately caused by the conduct of their children (particularly those under the age of 18 years) within the Properties. Enforcement of these Covenants may be initiated by any proceeding at law or in equity against any person or persons violating or attempting to violate them, whether the relief sought is an injunction or recovery of damages, or both, or enforcement of any lien created by these Covenants; but failure by the Association or any Owner to enforce any Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, from the non-prevailing party.

Section 12.06. Validity. Violation of or failure to comply with these Covenants shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may then be existing on any Lot. Invalidation of any one or more of these Covenants, or any portions thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these Covenants conflicts with mandatory provisions of any ordinance or regulation promulgated by the City of Dallas, then such municipal requirement shall control.

Section 12.07. Proposals of Association. The proposals of the Association, as may be set forth in various provisions hereinabove, are mere proposals and expressions of the existing good faith intentions and plans of the Association and shall not be deemed or construed as promises, solicitations, inducements, contractual commitments or material representations by the Association upon which any person or entity can or should rely. The Association has no control over the development of land parcels adjoining the Properties and the Association makes no representations of any kind or character concerning those parcels. Each prospective Owner should make

his/her own investigation concerning those parcels, and what impact, if any, same may have on the ownership, use and enjoyment of the Lots.

Section 12.08. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context requires otherwise. Examples, illustrations, scenarios and hypothetical situations mentioned herein shall not constitute an exclusive, exhaustive or limiting list of what can or cannot be done.

Section 12.09. Notices to Resident/Member/Owner. Any notice required to be given to any Resident, Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when: (i) deposited in the United States Mail, postage prepaid, addressed to the last known address of the person who appears as the Resident, Member or Owner on the records of the Association at the time of such mailing; or when (ii) delivered by hand or by messenger to the last known address of such person within the Properties. The Board may prescribe, in certain extraordinary situations (specifically including notices relating to fines and intent to file a notice-of-lien), that additional notices be mailed by certified mail, return receipt requested.

Section 12.10. Notices to Mortgagees. The holder(s) of a mortgage may be furnished with written notification from the Association of any default by the respective mortgagor/Member/Owner in the performance of such mortgagor's/Member's/Owner's obligation(s) as established by this Declaration, provided that the Association has been theretofore furnished, in writing, with the correct name and address of such mortgage holder(s) and a request to receive such notification and a reasonable supply of self-addressed, stamped envelopes.

Section 12.11. Disputes. Matters of dispute or disagreement between Owners, Residents or Members with respect to interpretation or application of the provisions (excluding Articles VIII and IX architectural matters) of this Declaration or the Association Bylaws, shall be determined by the Board of Directors. Matters pertaining to Articles VIII and IX architectural matters shall be determined by the Architectural Control Committee. These respective determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners, Residents and Members.

\* \* \* \* \*

Based on the affirmative vote of the Araglin Court members entitled to cast fifty-one percent (51%) of the votes of the Members of the Association entitled to vote who were present at a meeting duly called for such purpose, and at the direction of the Board of Directors of the Association, the undersigned officers of the Association sign this Declaration as of the 29th day of APRIL, 2008.

ARAGLIN COURT HOMEOWNERS  
ASSOCIATION, INC.

By: John M. Deutsch  
Its President

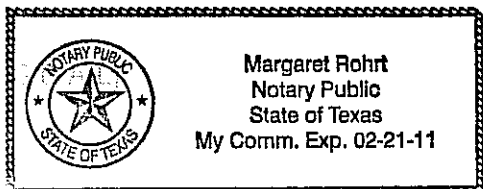
and

By: Virginia Bruce  
Its Secretary

THE STATE OF TEXAS  
COUNTY OF DALLAS

502020

This instrument was acknowledged before me on this the 27th day of APRIL, 2008, by JOHN DIETSCHY, President of ARAGLIN COURT HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation, on behalf of said corporation.



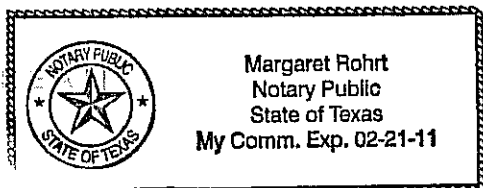
*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public, State of Texas

\* \* \* \* \*

THE STATE OF TEXAS  
COUNTY OF DALLAS

502020

This instrument was acknowledged before me on this the 27th day of APRIL, 2008, by VIRGINIA BOWERS, Secretary of ARAGLIN COURT HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation, on behalf of said corporation.



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public, State of Texas

**FILED AND RECORDED**



OFFICIAL PUBLIC RECORDS

*[Handwritten Signature]*

John F. Warren, County Clerk  
Dallas County TEXAS

May 02, 2008 02:42:54 PM

FEE: \$156.00

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