



**G. BOARD or BOARD OF DIRECTORS** - The Board of Directors of the Association, whether the Appointed Board, the First Elected Board or any subsequent Board.

**H. BYLAWS** - The Bylaws of the Association.

**I. COMMON AREA** - That part of Restricted Reserve "A," shown on the Plat, which is not conveyed to Mills Road Municipal Utility District by Declarant or the Association (see Article II, Section 2.8), Restricted Reserves "8" through "F", inclusive, as shown on the Plat, and all other real property owned by the Association for the common use and benefit of the Members of the Association, including, but not limited to, the private streets within the Subdivision.

**J. DECLARANT** - Donald Farrell Development Co., Ltd., a Texas limited partnership, its successors and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the office of the County Clerk of Harris County, Texas.

**K. FIRST ELECTED BOARD** - The Board of Directors of the Association first elected by the Members of the Association as provided in Article IV, Section 4.4 of this Declaration.

**L. LOT or LOTS** - Each of the lots shown on the Plat.

**M. MAINTENANCE FUND** - Any accumulation of the annual maintenance charges collected by the Association in accordance with the provisions of this Declaration and interest, penalties assessments and other sums and revenues collected by the Association pursuant to the provisions of this Declaration,

**N. MEMBER or MEMBERS** - All Lot Owners who are members of the Association as provided in Article IV hereof.

**O. MORTGAGE** - A security interest, mortgage, deed of trust, or lien instrument granted by an Owner to secure the payment of a loan made to such Owner, duly recorded in the office of the County Clerk of Harris County, Texas, and creating a purchase money lien or security interest encumbering a Lot and some or all improvements thereon.

**P. OWNER or OWNERS** - Any person or persons, firm, corporation or other entity or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.

**Q. PLAT** - The plat for Parkside at Perry, Section One (1), recorded under Film Code No. 444050, of the Map Records of Harris County, Texas, the plat for any other section of Parkside at Perry annexed and subjected to the provisions of this Declaration, and any replat thereof

**R. PLANS** - The final construction plans and specifications (including a related site plan) of any Residential Dwelling, building or improvement of any kind to be erected, placed, constructed, maintained or altered on any portion of the Property. 1

**S. PRIMARY STREET** - The right of way within the Subdivision called "Farrell Drive" which is fifty (50) feet in width and provides the primary means of ingress and egress to, from and throughout the Subdivision. The paved portion of the Primary Street shall be twenty-eight (28) feet in width. The Primary Street shall be a private street conveyed by Declarant to the Association

**T. PRIVATE STREET** - Any Primary Street, Secondary Street or Alley.

**U. PROPERTY** - All of Parkside at Perry, Section One (1), a subdivision in Harris County, Texas, according to the plat thereof recorded under Film Code No. 444050, of the Map Records of Harris County, Texas, and any other property that may be subjected to the Declaration by

annexation document duly executed and recorded in the Official Public Records of Real Property of Harris County, Texas.

**V. RESIDENTIAL DWELLING** - The single family residence and appurtenances constructed on a Lot.

**W. RESTRICTIONS** - The covenants, conditions, restrictions, easements, reservations and stipulations that shall be applicable to and govern the improvement, use, occupancy, and conveyance of all the Lots in the Subdivision as set out in this Declaration or any amendment thereto.

**X. RULES AND REGULATIONS** - Rules adopted from time to time by, the Board concerning the management and administration of the Subdivision for the use, benefit and enjoyment of the Owners.

**Y. SECONDARY STREET** - All private streets within the Subdivision which are eighteen (18) feet in width and provide access to certain Residential Dwellings. Secondary Streets shall be one-way streets according to the directional signs erected by Declarant. Declarant shall have the exclusive authority to designate the direction in which traffic must flow on Secondary Streets.

**Z. SUBDIVISION** – The Property, together with all improvements now or hereafter situated thereon and all rights and appurtenances thereto.

**AA. UTILITY COMPANY or UTILITY COMPANIES** - Any public entity, utility district, governmental entity (including without limitation, districts created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution) or one or more private entities that regulate, provide or maintain utilities and drainage.

## **ARTICLE II**

### **General Provisions Relating to Use and Occupancy**

#### **SECTION 2.1. USE RESTRICTIONS**

**A. GENERAL.** The Property shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration'. No Lot may be subdivided. Except in cases of a lender acquiring Lots as a result of foreclosure, no individual or entity shall own more than two (2) lots in the Subdivision at any given time.

**B. SINGLE FAMILY RESIDENTIAL USE.** Each Owner shall use his Lot and the Residential Dwelling on his Lot for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, but without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to -the primary use of the Lot and the Residential Dwelling for residential purposes. The term "single family residential purposes" shall also be defined as: (a) one or more persons related by blood, marriage or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents and their dependent grandparents; (b) no more than two unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents, and their dependent grandparents; and (c) in no event shall any Residential Dwelling be occupied by

more persons than the product of the total number of bedrooms contained in the Residential Dwelling multiplied by two (2). No Owner shall use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would (i) void any insurance in force with respect to the Subdivision; (ii) make it impossible to obtain any insurance required by these Restrictions; (iii) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (iv) constitute a violation of the Restrictions or any applicable law; (v) unreasonably interfere with the use and occupancy of the Subdivision by other Owners; or (vi) generate an unreasonable amount of vehicular traffic within the Subdivision.

**C. PASSENGER VEHICLES.** Except as provided in Article II, Section 2.1, D, below, no Owner, lessee, tenant or occupant of a Lot, including all persons who reside with such Owner, lessee or occupant on the Lot, shall park, keep or store any vehicle on any Lot which is visible from any Private Street in the Subdivision or any neighboring Lot other than a passenger vehicle or pick-up truck and then only if parked on the driveway for a period not exceeding forty-eight (48) consecutive hours. For purposes of these Restrictions, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas and a sport utility vehicle used as a family vehicle, and the term "pick-up truck" is limited to a three-quarter (3/4) ton capacity pick-up truck which has not been adapted or modified for commercial use. No passenger vehicle or pick-up truck owned or used by the residents of a Lot shall be permitted to be parked overnight on the Primary Street in the Subdivision. No guest of an Owner, lessee or other occupant of a Lot shall be entitled to park any passenger vehicle or pick-up truck overnight on the Primary Street in the Subdivision or on the driveway of a Lot for a period longer than forty-eight (48) consecutive hours. No Owner, lessee, tenant or occupant of a Lot, or guest of an Owner, lessee, tenant or occupant of a Lot, shall park any vehicle on any Secondary Street or Alley for any length of time or for any purpose. The Association shall have the right to cause any vehicle parked on a Primary Street, Secondary Street or Alley in violation of these Restrictions to be towed in the manner provided in the Texas Transportation Code.

**D. OTHER VEHICLES.** No mobile home trailers, recreational vehicles or boats shall be parked, kept or stored on any Private Street for any length of time or on the driveway of any Lot for more than twenty-four (24) hours in any fourteen (14) day period.

**E. VEHICLE REPAIRS.** No passenger vehicle, pick-up truck, mobile home trailer, recreational vehicle, boat or other vehicle of any kind shall be constructed, reconstructed, or repaired on any Lot within the Subdivision.

**F. NUISANCES.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot and no odors shall be permitted to arise therefrom, so as to render any such Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot or to its occupants. No nuisance shall be permitted to exist or operate upon any Lot. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot. The Board of Directors of the Association shall have the authority to determine whether any activity or condition on a Lot constitutes a nuisance and its determination shall be binding on the Owner and occupant of the Lot.

**G. REPAIR OF BUILDINGS.** No Residential Dwelling or other building or structure upon any Lot shall be permitted to fall into disrepair, and each such Residential Dwelling, building, or structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner of the Lot at such Owner's sole cost and expense.

**H. TRASH CONTAINERS.** No garbage or trash shall be placed or kept within the Subdivision except in covered containers of a type, size and style approved by the Architectural Review Committee. In no event shall any such containers be maintained on a Lot so as to be visible from any street in the Subdivision or any neighboring Lot except to make the same available for collection and then only the shortest time reasonably necessary to effect such collection.

**I. CLOTHES DRYING.** No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot.

**J. RIGHT TO INSPECT.** During reasonable hours, Declarant, any member of the Architectural Review Committee, any member of the Board, or any authorized representative of any of them, shall have the right to enter upon and inspect any Lot, and the exterior of the improvements thereon, for the purpose of ascertaining whether or not the provisions of the Restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

**K. ANIMALS.** No animals or birds, other than a maximum of two (2) generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept thereon solely as domestic pets and not for commercial purposes. The maximum aggregate weight of two (2) full grown pets maintained on a Lot shall not exceed eighty pounds (80 lbs.) No unleashed dog is permitted on any Private Street or on the Common Area. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be visible from any street in the Subdivision or a neighboring Lot. The Board shall have the authority to determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds kept on any Lot is reasonable and its determination shall be final.

**L. DISEASES AND INSECTS.** No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

**M. RESTRICTION ON FURTHER SUBDIVISION.** No Lot shall be further subdivided, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed by any Owner without the prior written approval of the Board of Directors.

**N. SIGNS.** No signs whatsoever (including but not limited to commercial, political and similar signs) shall be erected or maintained on any Lot if visible from any street in the Subdivision or a neighboring Lot except:

- (i) Street signs and such other signs as may be required by law;
- (ii) During the time of construction of any Residential Dwelling, building or other improvement, one job identification sign not larger than twenty-four (24") inches in height and twenty-four inches (24") in width; and
- (iii) Not more than two (2) political signs having a face area not larger than four (4) square feet each for a period of time commencing three (3) weeks before the corresponding election day and ending two (2) days after the election day, unless otherwise provided by law.

No "For Sale" sign shall be displayed on any portion of a Lot or improvement on a Lot.

**O. EXEMPTIONS.** Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of structures or signs necessary or convenient to the development, advertisement, sale, operation or other disposition of property within the Subdivision. Moreover, any bank or other lender providing financing to Declarant in connection with the development of the Subdivision or improvements thereon may erect signs on Lots owned by Declarant to identify such lender and the fact that it is supplying such financing.

## **SECTION 2.2. DECORATION MAINTENANCE ALTERATIONS AND REPAIRS**

**A. DECORATIONS.** Subject to the provisions of Article III, each Owner shall have the right to modify, alter, repair, decorate, redecorate or improve the Residential Dwelling on such Owner's Lot, provided that all such action is performed with a minimum inconvenience to other Owners and does not constitute a nuisance. Notwithstanding the foregoing, the Architectural Review Committee shall have the authority to require any Owner to remove or eliminate any object situated on such Owner's Residential Dwelling or Lot that is visible from any Private Street in the Subdivision or any other Lot, if, in the Architectural Review Committee's sole judgment, such object detracts from the visual attractiveness of the Subdivision.

**B. MAINTENANCE.** Each Owner shall maintain the Residential Dwelling and other improvements on his Lot in good order and repair at all times.

## **SECTION 2.3. TYPE OF CONSTRUCTION AND MATERIALS**

**A. TYPES OF STRUCTURES.** No structures shall be erected, altered, placed or permitted to remain on any Lot other than (i) one detached, single family dwelling not to exceed the height limitations set forth in Section 2.4, paragraph B, together with an attached or detached private garage or a carport and (ii) permitted accessory buildings, all of which are subject to approval by the Architectural Review Committee.

**B. STORAGE.** Without the prior written consent of the Architectural Review Committee, no building materials of any kind or character shall be placed or stored upon any Lot more than thirty (30) days before the construction of a Residential Dwelling, structure or other improvement is commenced. All materials permitted to be placed on a Lot shall be placed within the property lines of the Lot. After the commencement of construction of any Residential Dwelling, structure or improvement on a Lot, the work thereon shall be prosecuted diligently, to the end that the Residential Dwelling, structure or improvement shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. Upon the completion of the construction, any unused materials shall be removed immediately from the Lot.

**C. TEMPORARY STRUCTURES.** No structures of a temporary character, trailer (with or without wheels and whether or not attached to a foundation), mobile home (with or without wheels and whether or not attached to a foundation), modular or prefabricated home, tent, shack, barn or any other out-building structure or building, other than the permanent Residential Dwelling to be built thereon, an attached or detached garage a carport and one (1) or more accessory building(s) approved by the Architectural Review Committee shall be placed on any Lot, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto, shall be moved upon any Lot from another location. No accessory building shall exceed eight feet (8') in height, measured from the ground to the highest point of the roof of the accessory building. Any accessory

building on a Lot must be located within the rear yard, behind a fence. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place and maintain, such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of Residential Dwellings and construction of other improvements in the Subdivision.

**D. CARPORTS/GARAGES.** No garage or carport shall be constructed on any Lot without the prior written consent of the Architectural Review Committee. All carports and garages must be constructed in strict accordance with uniform specifications therefor promulgated by Declarant. No garage or carport shall be placed or maintained on any easement. No carport or garage” whether constructed on a Lot at the time of original construction of the, Residential Dwelling or thereafter, may be modified so as to deviate from the uniform specifications therefor promulgated by Declarant.

**E. ANTENNAS.** Satellite dish antennas which are forty inches or smaller in diameter and antennas designed to receive television broadcast signals may be installed, provided they are installed in conformance with the Architectural Guidelines adopted by the Architectural Review Committee. All other antennas are prohibited.

**F. EXTERIOR FINISH.** The exterior of the front of the Residential Dwelling on each Lot must be comprised of not less than fifty-one percent (51%) brick or masonry material. For purposes of this provision, stucco, including synthetic stucco, Hardi plank or similar material shall be considered a masonry material. All brick, stonework and mortar must be approved by the Architectural Review Committee as to type, size, color and application. No concrete, concrete block or cinder block shall be used as an exposed building surface. Any concrete, concrete block or cinder block utilized in the construction of a Residential Dwelling or for retaining walls and foundations shall be finished in the same materials utilized for the remainder of the Residential Dwelling. Metal flashing, valleys, vents and gutters installed on a Residential Dwelling shall blend with the color of the exterior materials to which they are adhered or attached.

**G. EXTERIOR LIGHTING.** All exterior lighting on a Lot must be approved by the Architectural Review Committee.

**H. MAILBOXES.** As of the date of recording this Declaration, the design of the Subdivision includes the use of cluster mailboxes. All individual mailboxes, if used in the future, shall be of a standard design approved by the Architectural Review Committee.

**I. ROOFING.** The Architectural Review Committee shall have the right to establish specific requirements for the pitch of any roof and the type of roofing materials which may be utilized for any Residential Dwelling. No solar or other energy collection panel, equipment or device shall be installed or maintained on any Lot or Residential Dwelling, including, without limitation, the roof of any Residential Dwelling, if visible from the Primary Street. All such vents, stacks and other projections from the roof of any Residential Dwelling shall, to the extent possible, be located on the rear roof of such Residential Dwelling.

**J. WINDOW TREATMENTS AND DOORS.** Reflective glass shall not be permitted on the exterior of any Residential Dwelling. No foil or other reflective materials shall be installed on any windows or used for sunscreens, blinds, shades or other purposes except as approved in writing by the Architectural Review Committee. Burglar Bars or doors shall not be permitted on the exterior of any windows or doors. Screen doors shall not be used on the front or side of any Residential Dwelling. No aluminum or metal doors with glass fronts (e.g., storm doors) shall be allowed on the front of any Residential Dwelling. Drapes, linings and all other types of window coverings which are visible from any Primary or Secondary Street or any neighboring Lot must be white or beige in color.

**K. UTILITY METERS AND HVAC EQUIPMENT.** All electrical, gas, telephone and cable television meters shall be located, to the extent possible, in the least obtrusive location. All exterior heating, ventilating and air-conditioning compressor units and equipment shall be located at the rear of the Residential Dwelling or at the side of the Lot screened from view in a manner approved by the Architectural Review Committee. No window, roof or wall type air conditioner that is visible from any Private Street in the Subdivision or any neighboring Lot shall be used, placed or maintained on or in any Residential Dwelling, garage or other building.

**L. RECREATIONAL FACILITIES.** Free-standing playhouses and treehouses are permitted only with the approval of the Architectural Review Committee. All playhouses and treehouses on a Lot must be located within the rear yard behind a fence. The type, color and location of a basketball goal on a Lot must be approved by the Architectural Review Committee. Barbecue grills or other types of outdoor cooking equipment and patio furniture shall be located within the rear yard behind a fence.

**M. LANDSCAPING.**

(1) The landscaping plan for each Lot shall be submitted to the Architectural Review Committee for approval pursuant to the provisions of Article III.

(2) The front, and the portion of the rear yard of each Lot outside the fence shall, unless otherwise approved by the Architectural Review Committee, be sodded with grass.

(3) All landscaping for a Lot shall be completed in accordance with the landscaping plan approved by the Architectural Review Committee no later than thirty (30) days following the issuance of a certificate of occupancy for the Residential Dwelling situated thereon.

(4) No hedge or shrubbery planting which obstructs sight-lines of streets shall be placed or permitted to remain on any Lot where such hedge or shrubbery interferes with traffic sight-lines for streets within the Subdivision. The determination of whether any such obstruction exists shall be made by the Architectural Review Committee, whose determination shall be final, conclusive and binding on all Owners.

(5) Except as approved by the Architectural Review Committee, no rocks, rock walls or other substances shall be placed on any Lot as a front or side yard border. No rocks, rock walls or other substances shall prevent vehicles from parking on or pedestrians from walking on any portion of such Lot or to otherwise impede or limit access to the same. No bird baths, foundations, reflectors, flag poles, statues, lawn sculptures, artificial plants, rock gardens, rock walls, free-standing bird houses or other fixtures and accessories shall be placed or installed within the front yard of any Lot, or in the side yard of a Lot if visible from a Private Street.

(6) No vegetable, herb or similar gardens or plants shall be planted or maintained in the front yard of any Lot or in the side yard of a Lot if visible from a Private Street.

(7) No Owner shall allow the grass on his Lot to grow to a height in excess of six (6) inches, measured from the surface of the ground.

(8) Seasonal or holiday decorations (e.g., Christmas trees and lights, pumpkins, Easter decorations) shall be removed from each Lot or Residential Dwelling within thirty (30) days after the holiday passes.

(9) No Owner or occupant of a Lot shall plant any plants, flowers, herbs, vegetables, shrubbery or trees on any portion of the Common Area.

**N. SWIMMING POOLS, AND OTHER AMENITY STRUCTURES.** Swimming pools, outdoor hot tubs, reflecting ponds, saunas, whirlpools, lap pools, playhouses, and other amenity structures may be constructed, installed, and maintained on any Lot subject to the prior written approval of the plans for the same by the Architectural Review Committee and these Restrictions. The Architectural Review Committee shall have the right to adopt further rules and regulations governing the construction of swimming pools, other outdoor water features or amenities within the Subdivision.

**O. DRIVEWAYS AND SIDEWALKS.** All driveways and sidewalks for each Lot shall be constructed of concrete. Other materials (e.g., brick) may be used but only if approved by the Architectural Review Committee. All driveways and sidewalks shall be paved; chert, gravel and loose stone driveways and sidewalks are prohibited. No driveway or sidewalk shall be painted or stained without the prior written approval of the Architectural Review Committee. The driveway within the boundaries of a Lot, and the portion of a driveway serving a Lot which extends from the Lot across an unpaved portion of a Private Street” shall be maintained by the Owner of the Lot. All sidewalks which are parallel to a Private Street shall be maintained by the Association; all other sidewalks shall be maintained by the Owner of the Lot on which the sidewalk is situated.

**P. LOT MAINTENANCE.** For a period of twelve (12) months commencing on the date of the conveyance of the first Lot from Declarant to an Owner, the Association shall, at its sole expense, be responsible for mowing and edging the grass in the front and side yards of all Lots in the Subdivision and the grass in the rear yard of each Lot in the Subdivision outside the fence enclosing the rear yard, and generally keeping such grass maintained in a sanitary, healthful and attractive manner. The Association’s Lot maintenance responsibility shall not include the obligation to water the grass; rather the Owner of each Lot shall be responsible for watering the grass in the front side and rear yards of his Lot as necessary to preserve growth. In the event that the Owner of a Lot fails to appropriately water the grass on his Lot, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and water the grass. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot, to pay all charges incurred by the Association to water the grass on Owner’s Lot, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of an invoice for such costs shall be secured by the lien created in Article V of this Declaration. Upon the expiration of the twelve-month period specified in this paragraph, the Association may, at its option, continue to maintain the grass in the front, side and open portions of the rear yards of all Lots for as long as the Association deems appropriate, provided that such maintenance of the Lots by the Association is approved by a majority vote of the Members of the Association at a meeting duly called and held for that purpose at which a quorum is present, either in person or by proxy. If the Members of the Association fail to approve a proposal that the Association continue to provide such maintenance of the Lots beyond the twelve-month period, Declarant may, but shall not be obligated to, maintain the grass in the front, side and open portions of the rear yards of all Lots for as long as Declarant deems appropriate, provided that Declarant continues to own at least one (1) Lot in the Subdivision.

After the Association’s maintenance obligation ceases, or in the event that the Association fails to perform its maintenance obligation, the Owners or occupants of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner, including the grass between the rear property line of each Lot to the paved portion of any Private Street. In no event shall an Owner use any Lot for storage of materials and equipment (except for normal residential requirements or incident to construction of improvements thereon as herein permitted) or permit the accumulation of garbage, trash or rubbish of any kind thereon. Owners shall not burn anything on any Lot. The Owners or occupants of any Lots at the intersection of streets, where the rear yard or

portion of the Lot is visible to full public-view shall construct and maintain a suitable enclosure approved in writing by the Architectural Review Committee to screen the following from public view: yard equipment, wood piles and storage piles that are incident to the normal residential requirements of a typical family. In the event that the Owner of a Lot fails to maintain his Lot in a sanitary, healthful and attractive manner, the Association may after ten (10) days written notice to the Owner or occupant of the Lot, at its option, without liability to the Owner or occupant of the Lot in trespass or otherwise, enter upon said Lot and mow and edge the grass, trim the bushes and trees, and remove any garbage, trash or rubbish of any kind, and charge the Owner and/or occupant of the Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot, to pay such charges, plus fifty percent (50) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration.

**Q. EXTERIOR COLORS.** Iridescent colors or tones considered to be brilliant are not permissible. For the purpose of this paragraph, “brilliant” is construed to mean a color that is not in the general texture of both the overall community and natural setting of the Subdivision. The purpose of this covenant is to maintain harmony of the exterior paint colors of the buildings throughout the Subdivision. All colors used on the exterior of any Residential Dwelling on a Lot must be consistent with the colors used at the time of original construction, it being the express intent of Declarant to preserve the original color scheme for Residential Dwellings in the Subdivision.

#### **SECTION 2.4. SIZE AND LOCATION OF RESIDENCES.**

**A. MINIMUM ALLOWABLE AREA OF INTERIOR LIVING SPACE.** The minimum allowable area of interior living space in a Residential Dwelling shall be One Thousand Two Hundred (1,200) square feet. For purposes of these Restrictions, the term “interior living space” excludes steps, porches, exterior balconies, garages and carports.

**B. MAXIMUM ALLOWABLE HEIGHT OF BUILDING.** No Residential Dwelling shall exceed a reasonable height required for two (2) stories of living space (above finished grade) plus a pitched roof. No Residential Dwelling shall have more than two (2) stories of living space above finished grade except in a case where a third (3rd) story of living space is contained within the volume defined by the roof plans of the Residential Dwelling. Notwithstanding the foregoing, no Residential Dwelling shall exceed a height of forty-five feet (45') above finished grade.

**C. LOCATION OF IMPROVEMENTS - SETBACKS.** No Residential Dwelling, garage or Improvement on any Lot other than fencing and/or landscaping approved by the Architectural Review Committee shall be located nearer to the front building line than that shown on the Plat. No Residential Dwelling, garage or Improvement other than approved fencing and/or landscaping on any Lot shall be located nearer to the rear property line than ten (10) feet. No Residential Dwelling, garage or Improvement other than approved fencing and/or landscaping on any Lot shall be located nearer to a side property line than three (3) feet, except a corner lot in which case no Residential Dwelling, garage or Improvement other than approved fencing and/or -landscaping shall be located nearer to the side property line adjacent to the side street than that shown on the Plat. Notwithstanding the foregoing, the Architectural Review Committee may grant variances from these setbacks, in the manner provided in Article III, Section 3.12, when, in its sole discretion, a variance is deemed necessary or appropriate.

## **SECTION 2.5. WALLS, FENCES AND BERMS.**

**A. FENCES.** In no event shall any fence or wall be constructed of chain link or wire. In those instances in which privacy fences are installed, in no case may the privacy fence extend beyond the front wall of the Residential Dwelling. No wall, hedge, pergola, or attached or detached structure shall be erected, grown or maintained on any part of the Lot which is in excess of eight (8) feet in height. The type of materials utilized for (including the color thereof) and the location of all fences, walls, hedges, pergolas and other structures must be approved by the Architectural Review Committee; provided that, all replacement fences must be white and the materials used in the construction of a fence which replaces a fence constructed at the time of original construction of the Residential Dwelling must be visually compatible with the materials used to construct the original fence.

**B. MAINTENANCE OF FENCES.** Ownership of any wall or fence erected on a Lot shall pass with title to such Lot and it shall be the Lot Owner's responsibility to maintain such wall or fence. In the event the Owner or occupant of any Lot fails to maintain said wall or fence and such failure continues after thirty (30) days' written notice thereof from the Association, Declarant, its successors or assigns, or the Association, may, at their option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the fence or wall to be repaired or maintained or to do any other thing necessary to secure compliance with these Restrictions, and to place said wall or fence in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot, to pay such charge, plus fifty percent (50) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be added to the Owner's assessment account and secured by the lien created in Article V of this Declaration.

**C. FENCES ERECTED BY DECLARANT.** Declarant shall have the right, but not the obligation, to construct fences and/or berms within or around the Subdivision which are deemed by the Declarant to enhance the appearance of the Subdivision, including, but not limited to, a fence, which may include a two (2) rail fence, a six (6) foot cedar fence, or both, along the perimeter of the Subdivision. An Owner shall be responsible for any damage to a fence or wall constructed by or at the direction of the Declarant which is caused by such Owner or his family members, or the negligent, but not the intentional, acts of his guests, agents or invitees. The Association shall maintain the area between the fence erected along the perimeter of the Subdivision and the paved public right of way.

Notwithstanding the foregoing, if substantial completion of Residential Dwelling on a Lot is effected prior to the commencement of construction of a Residential Dwelling on an adjacent Lot, Declarant shall have the right, but not the obligation, to erect a chain link fence on the Lot on which the Residential Dwelling that is substantially complete exists for the maximum period of time specified herein. The purpose of this provision is to allow a temporary chain link fence to be erected to avoid damage to the permanent fencing which would otherwise be required once the construction of a Residential Dwelling on the adjacent Lot commences. Any such chain link fence erected by Declarant must be erected within sixty (60) days of the date of substantial completion of the Residential Dwelling on the Lot. For the purpose of this provision, "substantial completion" means the date the Residential Dwelling is ready for occupancy. Any chain link fence erected on a Lot by Declarant pursuant to this paragraph must be replaced with a permanent fence (a) within 300 days of the date that the fence is erected, if the construction of a Residential Dwelling on the adjacent Lot has not commenced as of the expiration of such 300 day period, or (b) at the time of substantial

completion of the Residential Dwelling on the adjacent Lot, if the construction of the Residential Dwelling on the adjacent Lot commences prior to the expiration of the 300 day period. If Declarant commences the construction of permanent fencing along one perimeter of the Subdivision (i.e., parallel to one of the streets adjacent to the Subdivision), Declarant shall not be obligated to erect fencing along any other perimeter of the Subdivision until Residential Dwellings on all Lots along that perimeter of the Subdivision have been substantially completed. .

**D. LANDSCAPE BERMS INSTALLED BY DECLARANT.** As shown on the Plat, there are areas adjacent to Louedd Road and Perry Road which are reserved for future right-of-way widening. The area adjacent to Louedd Road is twenty (20) feet in width and the area adjacent to Perry Road is twenty five (25) feet in width. Declarant may, but shall not be obligated to, install landscape berms (which may include landscaping and/or irrigation) in these areas for aesthetic purposes. If constructed, the center of each landscape berm may be at or near the property line, meaning that the landscape berm may be located, in part, in the right-of-way and, in part, on the adjacent Lot(s). If either one or both of the right-of-ways are widened. Declarant shall not be responsible for removing the berm or any landscaping and irrigation (whether in the right-or-way or an adjacent Lot) prior to the commencement of the road widening work or replacing the berm or landscaping and irrigation upon completion of the work.

## **SECTION 2.6. RESERVATIONS AND EASEMENTS.**

**A. UTILITY EASEMENTS.** Declarant reserves the utility easements, roads and rights-of-way shown on the Plat for the construction, addition, maintenance and operation of all necessary utility systems including systems of electric light and power supply, telephone service, cable television service, gas supply, water supply and sewer service, including systems for utilization of services resulting from advances in science and technology. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing, replacing, repairing and maintaining all utilities. By virtue of this easement, it shall be expressly permissible for the Utility Companies and other entities supplying services to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, under the land within the utility easements now or from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this Section 2.6.A., no utilities or appurtenances thereto may be installed or relocated on the Subdivision until approved by Declarant or the Board.

**B. ADDITIONAL EASEMENTS.** Declarant reserves the right to impose further restrictions and dedicate additional easements and roadway rights of way by instrument recorded in the office of the County Clerk of Harris County, Texas or by express provisions in conveyances, with respect to Lots that have not been sold by Declarant.

**C. CHANGES TO EASEMENTS.** Declarant reserves the right to make changes in and additions to all easements for the purpose of aiding in the most efficient and economic installation of utility systems.

**D. MINERAL RIGHTS.** It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land in the Subdivision by contract, deed or other conveyance shall not in any event be held or construed to include the title to any oil, gas, coal, lignite, uranium, iron ore, or any other minerals, water (surface or underground), gas, sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any utility or appurtenances thereto constructed by or under authority of Declarant or its agents or Utility Companies through, along or

upon said easements or any part thereof to serve said Lot or parcel of land or any other portions of the Subdivision. Declarant hereby expressly reserves the right to maintain, repair, sell or lease such lines, utilities, drainage facilities and appurtenances to any public service corporation or other governmental agency or to any other party. Notwithstanding the fact that the title conveyed by Declarant to any Lot or parcel of land in the Subdivision by contract, deed, or other conveyances shall not be held or construed to include the title to oil, gas, coal, lignite, uranium, iron ore or any other minerals. Declarant shall have no surface access to the Property for mineral purposes.

**E. DRAINAGE.** Except as shown on the drainage plan for the Subdivision, no Owner of a Lot shall be permitted to construct improvements on such Lot or to grade such Lot or permit such Lot to remain in or be placed in such condition that water on such Lot drains to any other Lot. The Declarant may, but shall not be required to, install drainage inlets or underground drains within the utility easement on one or more Lots. If so, no Owner shall in any manner obstruct or interfere with such drainage system. All portions of the private storm sewer system within the Subdivision shall be maintained by the Association. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing replacing, repairing and maintaining all portions of the private storm sewer system.

**F. COMMON AREA.** The Common Area is reserved for the common use, benefit and enjoyment of the Owners, subject to such reasonable rules and regulations governing the use thereof as may be promulgated by the Association. An Owner's right to use the Common Area is appurtenant to title to a Lot. Each Owner shall observe and comply with any reasonable rules and regulations promulgated and published by the Association relating to the Common Area and shall be deemed to acknowledge and agree that all such rules and regulations, if any, are for the mutual and common benefit of all Owners. Declarant shall have the right to add property to the Common Area; provided that such additional property is free and clear of all encumbrances. As long as there is Class B membership in the Association, the Common Area may not be dedicated to any public agency, authority or utility without the consent of the Federal Housing Administration and the Veterans Administration. Further, the Common Area may not be mortgaged or conveyed without the consent of not less than two-thirds (2/3) of the Lot Owners, excluding Declarant. Any conveyance or encumbrance of Common Area which provides ingress or egress to a Residential Dwelling shall be subject to the Owner's easement rights. At all times there shall be gates at each entrance to the Subdivision.

**G. ELECTRIC DISTRIBUTION SYSTEM.** An electric distribution system will be installed in the Subdivision, which service area embraces all of the Lots which are platted in the Subdivision. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. In the event that there are constructed within the underground residential subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments, then the underground service area embraces all of the dwelling units involved. The Owner of each Lot containing a single dwelling unit, shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by

designation on the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowner's to permit installation, repair and maintenance of each homeowner's owned, and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, shall, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as service is maintained, the electric service to each dwelling unit therein shall be uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the electric distribution system at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Subdivision is being developed for residential dwelling units, consisting solely of homes, all of which are designed to be permanently located where originally constructed which are built for sale or rent.

The provisions of the two preceding paragraphs also apply to any future residential development in Parkside at Perry.

**H. REAR YARDS.** The rear yard of each Lot will be enclosed by a fence at the time of original construction of the Residential Dwelling. The area enclosed by a fence for the use and benefit of the Owner or occupant of a particular Lot shall include a portion of an adjacent Lot. The portion of the adjacent Lot enclosed by a fence at the time of original construction shall be shown on a survey attached to the deed conveying the Lot to the Owner who is entitled to the use and benefit of such area. The area shall also be shown on a survey attached to the deed conveying the subject Lot. There is hereby established and dedicated for the use of the Owner of each Lot a limited perpetual easement over and upon that portion of the adjacent Lot enclosed by a fence and depicted in the surveys attached to the deeds. Each easement is for the purpose of planting grass, flowers and shrubbery, and maintaining and repairing the fence thereon. The Owner of the Lot subject to the easement shall not have the right to remove or relocate the fence or otherwise interfere with the adjacent Lot Owner's right to use the easement. In the event that the portion of the fence on a Lot which solely benefits the owner of the easement requires repair and/or replacement, it shall be the responsibility of the owner of the easement to repair and/or replace the fence at his sole cost and expense and in accordance with Section 2.5, paragraph A, of the Declaration. The maintenance, repair and replacement of that portion of the fence enclosing the rear of a Lot which benefits not only the owner of the easement, but also the Owner of the Lot, shall be the responsibility of both Owners and the cost of repairing and replacing any such portion of the fence shall be shared equally.

**I. SIDEWALKS.** Declarant shall construct a sidewalk that is located parallel to the perimeter boundary of the Subdivision for use by all Owners, their tenants, invitees and guests. The sidewalk constructed on each Lot shall be maintained by the Association. There is hereby established and dedicated for the use and benefit of the Association limited perpetual easements upon and across each Lot on which a sidewalk is constructed for the purposes of providing to the -Association ingress and egress to maintain, repair and replace the sidewalk.

**J. OPEN SPACES.** Portions of the following Lots in Block Two (2) of Parkside at Perry, Section One (1), shall, at all times, be and remain open spaces: Lots 35 through 42, inclusive, and lots 45 through 49, inclusive. The portions of the Lots which are designated as open spaces, and which are subject to the easement described below, are shown in Exhibits "A", "B" and "C", attached hereto and incorporated herein for all purposes. The Association shall be obligated to maintain these

portions of the Lots; the Owner of each Lot shall not have the right to erect, construct, install or place any Improvements on the portion of the Owner's Lot designated as an open space without the prior written consent of the Association. There is hereby established and dedicated for the Association a limited perpetual easement over and upon that portion of each of Lots 35 through 42, inclusive, and Lots 45 through 49, inclusive, of Block Two (2), Parkside at Perry, Section One (1), as shown on Exhibits "A," "B" and "C" attached hereto, for the purposes of landscaping and maintaining such areas.

## **SECTION 2.7. PRIVATE STREETS**

**A. PRIMARY STREET.** The entrance to the Primary Street from Autumn Mill Drive shall be gated. A key pad access system shall be used to provide access to the Subdivision through the gate. A gate shall also be installed at the intersection of the Primary Street and Perry Road; however, this gate shall be used by residents and guests as an exit only. Access to the Subdivision through this gate shall be for emergency vehicles only. The Association shall have the responsibility to maintain and repair all gates within the Subdivision. Provided that, an Owner shall be responsible for any damage to a gate which is caused by such Owner or his family members, or the negligent, but not the intentional, acts of his guests, agents, or invitees.

**B. SECONDARY STREETS.** The Secondary Streets shall be one-way streets. Declarant shall have the exclusive authority to designate the direction in which traffic must flow on the Secondary Streets. The paved portion of all Secondary Streets shall be maintained by the Association.

**C. ALLEY.** An Alley shall be accessible only from within the Subdivision. An Alley shall be a one-way street. Declarant shall have the exclusive authority to designate the direction in which traffic must flow on an Alley. A resident or guest may exit the Subdivision from an Alley only at the intersection of the Alley and Autumn Mill Drive.

## **SECTION 2.8. DETENTION AREA.**

**A. DETENTION AREA.** A portion of the Land adjacent to the Subdivision, which is shown on the plat as Restricted Reserve "A" is a detention area to be conveyed by either Declarant or the Association to Mills Road Municipal Utility District. Unless there is water in it, the detention area may be used by residents of the Subdivision for recreational purposes, subject to any rules and regulations limiting the use of the detention area that may be promulgated by either Mills Road Municipal Utility District or the Association. In the event of any conflict between any rules and regulations promulgated by Mills Road Municipal Utility District and the Association, the rules and regulations promulgated by Mills Road Municipal Utility District shall prevail. The Association is authorized to use its funds for the purpose of maintaining the detention area and purchasing and repairing any pumps or other equipment deemed appropriate for the detention area and authorized for use by Mills Road Municipal Utility District. The Association shall be responsible for mowing Restricted Reserve "A" and maintaining any landscaping thereon. Mills Road Municipal Utility District shall be responsible for maintaining its facilities in Restricted Reserve "A".

## ARTICLE III

### Architectural Approval

**SECTION 3.1. ARCHITECTURAL REVIEW COMMITTEE.** As used in this Declaration, the term "Architectural Review Committee" shall mean a committee of three (3) members, all of whom shall be appointed by Declarant, except as otherwise set forth herein. Declarant shall have the continuing right to appoint all three (3) members until the earlier of (a) the date the last Lot owned by Declarant is sold (except in connection with a conveyance to another party that is a successor as Declarant), or (b) such date as the Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board shall have the right to appoint all members. Members of the Architectural Review Committee may, but need not be, Members of the Association. Members of the Architectural Review Committee appointed by Declarant may be removed at any time and shall serve until resignation or removal by Declarant. The initial Members of the Architectural Review Committee are Mark Kaufman, Don Meeks and Keith Radcliffe. Members of the Architectural Review Committee appointed by the Board may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board. The Architectural Review Committee shall have the right to designate a Committee Representative by recordation of a notice of appointment in the Official Public Records of Real Property of Harris County, Texas, which notice must contain the name, address, and telephone number of the Committee Representative. All third parties shall be entitled conclusively to rely upon such person's actions as the actions of the Architectural Review Committee itself until such time as the Architectural Review Committee shall record a notice of revocation of such appointment in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 3.2. APPROVAL OF IMPROVEMENTS REQUIRED.** In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the development, to establish and preserve a harmonious design for the development, and to protect and promote the value of the Property, the Lots and Residential Dwellings and all Improvements thereon, no Improvements of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on any Lot or Residential Dwelling by any Owner, other than Declarant, which affect the exterior appearance of any Lot or Residential Dwelling unless plans and specifications therefore have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article.-Without limiting the foregoing, the construction and installation of any dwellings, sidewalks, driveways, parking lots, mailboxes, decks, patios, courtyards, landscaping, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, carports, guest or servant's quarters, garages or any other outbuildings, shall not be undertaken, nor shall any exterior addition to or change or alteration be made (including, without limitation, painting or staining of any exterior surface) to any Residential Dwelling or Improvements, unless the plans and specifications for the same have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article.

The Architectural Review Committee is hereby authorized and empowered to approve all plans and specification and the construction of all Residential Dwellings and other Improvements on any part of the Property and the Builder of such improvements. Prior to the commencement of any Residential Dwelling or other Improvements on any Lot or Residential Dwelling, the Owner thereof

shall submit to the Architectural Review Committee plans and specifications and related data for all such improvements, which shall include the following:

- (i) A check in the amount of the then applicable Submission Fee, made payable to “Parkside at Perry Homeowners Association, Inc.”
- (ii) Two (2) copies of an accurately drawn and dimensioned site development plan indicating the location of any and all Improvements, including, specifically, the Residential Dwelling to be constructed on said Lot, the location of all driveways, walkways, decks, terraces, patios and outbuildings and the relationship of the same to any set-back requirements applicable to the Lot or Residential Dwelling.
- (iii) Two (2) copies of a foundation plan, floor plans and exterior elevation drawing of the front, back, and sides of the Residential Dwelling to be constructed on the Lot.
- (iv) Two (2) copies of written specifications and, if requested by the Architectural Review Committee, samples indicating the nature, color, type, shape, height and location of all exterior materials to be used in the construction of the Residential Dwelling on such Lot or any other Improvements thereto, including, without limitation, the type and color of all brick, stone, stucco, roofing and other materials to be utilized on the exterior of a Residential Dwelling and the color of paint or stain to be used on all doors, shutters, trim work, eaves and cornices on the exterior of such Residential Dwelling.
- (v) Two (2) copies of the lighting plan, including specifications, for any exterior lighting to be utilized with respect to such Lot or Residential Dwelling.
- (vi) Two (2) copies of the landscaping and irrigation plans prior to the installation of any landscaping or irrigation.
- (vii) A written statement of the estimated date of commencement, if the proposed Improvement is approved, and the estimated dated of completion.
- (viii) Such other plans, specifications or other information or documentation as may be required by the Architectural Guidelines.

The Architectural Review Committee shall, in its sole discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. One copy of all plans, specifications and related data so submitted to the Architectural Review Committee shall be retained in the records of the Architectural Review Committee and the other copy shall be returned to the Owner submitting the same marked “approved”, “approved as noted” or “disapproved”. The Architectural Review Committee shall establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof (“the Submission Fee”)

The Architectural Review Committee shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations, any failure to comply with any of the provisions of this Declaration or the Architectural Guidelines, failure to provide requested information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed Improvement with the scheme of development proposed for the

Subdivision, objection to the location of any proposed Improvements on any such Lot or Residential Dwelling, objection to the landscaping plan for such Lot or Residential Dwelling, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement or any other matter which, in the sole judgment of the Architectural Review Committee, would render the proposed Improvement inharmonious with the general plan of development contemplated for the Subdivision. The Architectural Review Committee shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot or Residential Dwelling shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements or Residential Dwelling. Approval of plans and specifications by the Architectural Review Committee for Improvements to one particular Lot or Residential Dwelling shall not be deemed an approval or otherwise obligate the Architectural Review Committee to approve similar plans and specifications of any of the features or elements for the Improvements for any other Lot or Residential Dwelling within the Subdivision.

Any revisions, modifications or changes in any plans and specifications previously approved by the Architectural Review Committee must be approved by the Architectural Review Committee in the same manner specified above.

If construction of the Residential Dwelling or the Improvements has not substantially commenced (e.g., by clearing and grading, pouring of footing and otherwise commencing framing and other related construction work) within ninety (90) days of approval by the Architectural Review Committee of the plans and specifications for such Residential Dwelling or other Improvements, then no construction may be commenced (or continued) on such Lot or Residential Dwelling and the Owner of such Lot or Residential Dwelling shall be required to resubmit all plans and specifications for any Residential Dwelling or other Improvements to the Architectural Review Committee for approval in the same manner specified above.

**SECTION 3.3. ADDRESS OF COMMITTEE.** The address of the Architectural Review Committee shall be at the principal office of the Association or such other address as may be designated from time to time by the Architectural Review Committee by notice recorded in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 3.4. ARCHITECTURAL GUIDELINES.** The Architectural Review Committee from time to time may promulgate, supplement or amend the Architectural Guidelines, which provide an outline of minimum acceptable standards for proposed Improvements; provided, however, that such outline will serve as a minimum guideline only and the Architectural Review Committee may impose other requirements in connection with its review of any proposed Improvements. If the Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, the provisions of the Architectural Guidelines shall control.

**SECTION 3.5. FAILURE OF COMMITTEE TO ACT ON PLANS.** Any request for approval of a proposed Improvement on a Lot shall be deemed approved by the Architectural Review Committee, unless disapproval or a request for additional information or materials is transmitted to the applicant by the Architectural Review-Committee within forty-five (45) days after the date of receipt by the Architectural Review Committee of all required materials; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines, the Architectural Review Committee at all times retaining the right to object to any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines.

**SECTION 3.6. PROSECUTION OF WORK AFTER APPROVAL.** The provisions of this Section apply to all parties other than Declarant. After approval of any proposed Improvement on a Lot, the proposed Improvement shall be prosecuted diligently and continuously and shall be completed within the time frame approved by the Architectural Review Committee and in strict conformity with the description of the proposed Improvement in the materials submitted to the Architectural Review Committee. No building materials shall be placed upon a Lot until the Owner is ready to commence construction. Owners shall keep the job site and all surrounding areas clean during the progress of construction. All construction trash, debris and rubbish on each Lot shall be properly disposed of at least weekly. In no event shall any used construction material be buried on or beneath any Lot or Residential Dwelling. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on any street. All construction vehicles must be parked on the Lot or in areas designated by the Architectural Review Committee. Construction on a Lot is permitted only between the hours of 7:00 o'clock a.m. and 9:00 o'clock p.m., Monday through Saturday. No Improvement on a Lot shall be deemed completed until the exterior fascia and trim on the structure has been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the Residential Dwelling, other than attics, have been finished. Removal of materials and debris shall not take in excess of thirty (30) days following completion of the exterior.

**SECTION 3.7. NOTICE OF COMPLETION.** The provisions of this Section apply to all parties other than Declarant. Promptly upon completion of the Improvement on a Lot, the applicant shall deliver a notice of completion ("Notice of Completion") to the Architectural Review Committee and, for all purposes hereunder, the date of receipt of such Notice of Completion by the Architectural Review Committee shall be deemed to be the date of completion of such Improvement, provided that the Improvement is, in fact, completed as of the date of receipt of the Notice of Completion.

**SECTION 3.8. INSPECTION OF WORK.** The Architectural Review Committee or its duly authorized representative shall have the right to inspect any Improvement on a Lot before or after completion.

**SECTION 3.9. NOTICE OF NONCOMPLIANCE.** If, as a result of inspections or otherwise, the Architectural Review Committee finds that any Improvement on a Lot has been constructed or undertaken without obtaining the approval of the Architectural Review Committee, or has been completed other than in strict conformity with the description and materials furnished by the applicant to the Architectural Review Committee, or has not been completed within the required time period after the date of approval by the Architectural Review Committee, the Architectural Review Committee shall notify the applicant in writing of the noncompliance ("Notice of Noncompliance"), which notice shall be given, in any event, within sixty (60) days after the Architectural Review Committee receives a Notice of Completion from the applicant. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the applicant to take such action as may be necessary to remedy the noncompliance. If the applicant does not comply with the Notice of Noncompliance within the period specified by the Architectural Review Committee, the Association may, acting through the Board, at its option but with no obligation to do so, (a) record a Notice of Noncompliance against the real property on which the noncompliance exists in the Official Public Records of Real Property of Harris County, Texas; (b) remove the noncomplying Improvement on the Lot; and/or (c) otherwise remedy the noncompliance (including, if applicable, completion of the Improvement in question), and, if the Board elects to take any action with respect to such violation, the applicant shall reimburse the Association upon demand for all expenses incurred therewith. The

permissive (but not mandatory) right of the Association to remedy or remove any noncompliance (it being understood that no Owner may require the Board to take such action) shall be in addition to all other rights and remedies that the Association may have at law, in equity, under this Declaration, or otherwise. Any expenses incurred by the Association as a result of the applicant's noncompliance shall be charged to the applicant's assessment account and collected in the same manner as provided in Article V.

**SECTION 3.10. FAILURE OF COMMITTEE TO ACT AFTER NOTICE OF COMPLETION.** If, for any reason other than the applicant's act or neglect, the Architectural Review Committee fails to notify the applicant of any noncompliance within sixty (6,0) days after receipt by the Architectural Review Committee of a written Notice of Completion from the applicant, the Improvement on a Lot shall be deemed in compliance if the Improvement on a Lot in fact was completed as of the date of Notice of Completion; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines, the Architectural Review Committee at all times retaining the right to object to any Improvement on a Lot that violates this Declaration or the Architectural Guidelines.

**SECTION 3.11. NO IMPLIED WAIVER OR ESTOPPEL.** No action or failure to act by the Architectural Review Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Architectural Review Committee or the Board of Directors, with respect to any Improvement on a Lot. Specifically, the approval by the Architectural Review Committee of any Improvement on a Lot shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement on another Lot or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement on a Lot by such person or otherwise.

**SECTION 3.12. POWER TO GRANT VARIANCES.** The Architectural Review Committee may authorize variances from compliance with any of the provisions of Article II of this Declaration (except for the provisions relating to single family residential construction and use), including restrictions upon placement of structures, the time for completion of construction of Improvements on a Lot, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Review Committee. Notwithstanding anything contained in this Declaration to the contrary, the Committee Representative shall not have the power to grant a variance. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of any variance affect the jurisdiction of the Architectural Review Committee other than with respect to the subject matter of the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned.

**SECTION 3.13. COMPENSATION OF ARCHITECTURAL REVIEW COMMITTEE MEMBERS.** The members of the Architectural Review Committee shall be entitled to reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve.

**SECTION 3.14. ESTOPPEL CERTIFICATES.** Except with respect to improvements originally constructed by Declarant, the Board of Directors, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Review Committee, shall furnish a certificate with respect to the approval or disapproval of any Improvement on a Lot or with respect to whether any Improvement on a Lot was made in compliance herewith. Any person, without actual notice of any falsity or inaccuracy of such a certificate, shall be entitled to rely on such certificate with respect to all matters set forth therein.

**SECTION 3.15. NONLIABILITY FOR ARCHITECTURAL REVIEW COMMITTEE ACTION.** None of the members of the Architectural Review Committee, any Committee Representative, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Review Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not inspect, guarantee or warrant the workmanship of the Improvement, including its design, construction, safety, whether structural or otherwise, conformance with building codes, or other governmental laws or regulations or whether the Improvement is suitable or fit for its intended purpose. Furthermore, none of the members of the Architectural Review Committee, the Committee Representative, any member of the Board of Directors, or Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such other individuals were acting on behalf of the Association, the Architectural Review Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board, the Architectural Review Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises. Improvements, or portion thereof, or for failure to repair or maintain the same.

**SECTION 3.16. CONSTRUCTION PERIOD EXCEPTION.** During the course of actual construction of any permitted structure or Improvement on a Lot, and provided construction is proceeding with due diligence, the Architectural Review Committee may temporarily suspend the provisions of Article II contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion of construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Subdivision.

**SECTION 3.17. SUBSURFACE CONDITIONS.** The approval of plans and specifications by the Architectural Review Committee for any Residential Dwelling or other Improvement on a Lot shall not be construed in any respect as a representation or warranty by the Architectural Review Committee or Declarant to the Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvements contemplated by such plans and specifications. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of any Lot for the construction of any contemplated Improvements thereon.

**SECTION 3.18. LANDSCAPING.** No landscaping, grading, excavation or fill work of any nature should be implemented or installed by any Owner other than Declarant on any Lot unless and until landscaping plans therefore have been submitted to and approved by the Architectural Review Committee in accordance with the provisions of this Article III.

## ARTICLE IV

### Management and Operation of Subdivision

**SECTION 4.1. MANAGEMENT BY ASSOCIATION.** The affairs of the Subdivision shall be administered by the Association. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Subdivision as herein provided for and as provided for in the Bylaws and in the Rules and Regulations. The business and affairs of the Association shall be managed by its Board of Directors. The Declarant shall determine the number of directors and appoint, dismiss and reappoint all of the members of the Board until the first election of Directors by the Members of the Association is held in accordance with the provisions of Section 4.4 and a Board of Directors is elected. The Appointed Board may engage the Declarant or any entity, whether or not affiliated with Declarant, to perform the day to day functions of the Association and to provide for the maintenance, repair, replacement, administration and operation of the Subdivision. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Subdivision as the Board deems reasonably necessary or appropriate to maintain and operate the Subdivision in accordance with the Restrictions, including without limitation, the right to grant utility and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, or other matters of mutual interest.

**SECTION 4.2. MEMBERSHIP IN ASSOCIATION** Each Owner, whether one or more persons or entities, of a Lot shall, upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the Association until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership.

**SECTION 4.3. VOTING OF MEMBERS.** The Association shall have two classes of membership.

Class A. Class A Members shall be all those Owners as defined in Section 4.2, with the exception of Declarant. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership in Section 4.2. When more than one person holds interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be Declarant, its successors and assigns. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Section 4.2; provided, however, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when seventy-five percent (75) of the Lots are deeded to Class A Members; or
- (b) the expiration of ten (10) years from the date this Declaration is recorded.

In the event that ownership interests in a Lot are owned by more than one Member of the Association, such Members shall exercise their right to vote in such manner as they may among themselves determine, but in no event shall more than one vote be cast for each Lot not owned by the Declarant. Such Owners shall appoint one of them as the Member who shall be entitled to exercise the vote of that Lot at any meeting of the Association. Such designation shall be in writing to the Board and shall be revocable at any time by actual written notice to the Board. The Board shall be entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Lot is owned by more than one Member of the Association and no single Member is designated to vote on behalf of the Members having an ownership interest in such Lot, the single Member exercising the vote for such Lot shall be deemed to have been designated as the Member entitled to exercise the vote for that Lot. All Members of the Association may attend meetings of the Association and all eligible voting Members may exercise their vote at such meetings either in person or by proxy. The Association shall have the right to suspend an Owner's voting rights for non-payment of any assessments due on the Owner's Lot and/or for infractions of this Declaration or any Rules and Regulations promulgated by the Association. Cumulative voting shall not be permitted.

**SECTION 4.4. MEETINGS OF THE MEMBERS.** An annual meeting of the Members of the Association shall be held in October of each year. The first election of Directors by the Members of the Association ("the First Elected Board") shall be held at the annual meeting of the Members next following the seventh (7th) anniversary date of the recording of this Declaration, unless Declarant sooner relinquishes control of the Association. Special meetings of the Members of the Association shall be held at such place and time and on such dates as shall be specified or provided in the Bylaws.

**SECTION 4.5. PROFESSIONAL MANAGEMENT.** The Board shall have the authority to retain, hire, employ or contract with such professional management companies or personnel as the Board deems appropriate to perform the day to day functions of the Association and to provide for the construction, maintenance, repair, landscaping, administration and operation of the Subdivision as provided for herein and as provided for in the Bylaws.

**SECTION 4.6. BOARD ACTIONS IN GOOD FAITH.** Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party.

**SECTION 4.7. STANDARD OF CONDUCT.** The Board of Directors, the officers of the Association, and the Association shall have the duty to represent the interests of the Owners in a fair and just manner. Any act or thing done by any Director, officer or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the Declaration, Articles of Incorporation, ByLaws and the laws of the State of Texas, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing shall not be a breach of duty on the part of the Director, officer or committee member if taken or done within the exercise of their discretion and judgment. The Business Judgment Rule means that a court shall not substitute its judgment for that of the Director, officer or committee member. A court shall not re-examine the decisions made by a Director, officer or committee member by determining the reasonableness of the decision as long as the decision is made in good faith and in what the Director, officer, or committee member believed to be in the best interest of the Association.

## ARTICLE V

### **Maintenance Expense Charge and Maintenance Fund**

**SECTION 5.1. MAINTENANCE FUND.** All annual maintenance charges collected by the Association and all interest, penalties, assessments and other sums and revenues collected by the Association constitute the Maintenance Fund. The Maintenance Fund shall be held, managed, invested and expended by the Board, at its discretion, for the benefit of the Subdivision and the Owners of Lots therein. The Board shall by way of illustration and not by way of limitation expend the Maintenance Fund for the administration, management, and operation of the Subdivision; for the maintenance, repair and improvement of the Common Area; for the maintenance of any easements granted to the Association; for the enforcement of these Restrictions by action at law or in equity, or otherwise, and the payment of court costs as well as reasonable and necessary legal fees; and for all other purposes that are, in the discretion of the Board, desirable in order to maintain the character and value of the Subdivision and the Lots therein. The Board and its individual members shall not be liable to any person as a result of actions taken by the Board with respect to the Maintenance Fund, except for willful neglect or intentional wrongdoings.

**SECTION 5.2. COVENANTS FOR ANNUAL MAINTENANCE CHARGES AND ASSESSMENTS.** Subject to Article V, Section 5.7, below, each and every Lot in the Subdivision is hereby severally subjected to and impressed with an annual maintenance charge or assessment in an amount to be determined annually by the Board, which annual maintenance charge shall run with the land. Each Owner of a Lot, by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the charges and assessments against his Lot and/or assessed against him by virtue of his ownership thereof, as the same shall become due and payable, without demand. The charges and assessments herein provided for shall be a charge and a continuing lien upon each Lot, together with all Improvements thereon, as hereinafter more particularly stated. Each charge or assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such assessment accrued, but no Member shall be personally liable for the payment of any assessment made or becoming due and payable after his ownership ceases. No Member shall be exempt or excused from paying any such charge or assessment by waiver of the use or enjoyment of the Common Areas, or any part thereof, or by abandonment of his Lot or his interest therein.

**SECTION 5.3. BASIS AND MAXIMUM ANNUAL ASSESSMENT.** Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum annual assessment shall be \$430.00 per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum annual assessment may be automatically increased, effective January 1 of each year, by an amount equal to a ten percent (10) increase over the prior year's annual assessment without a vote of the Members of the Association. From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment may be increased above ten percent (10) only if approved by the vote of not less than two-thirds (2/3) of each class of Members. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount established pursuant to this section. The annual assessment levied against each Lot shall be uniform.

**SECTION 5.4. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT.** The initial maximum annual assessment provided for herein shall be established as to all Lots on the first day of the month following the conveyance of the first Lot by Declarant. However, the annual assessment shall commence as to each Lot on the date of the conveyance of the Lot by the Declarant and shall be prorated according to the number of days remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner.

**SECTION 5.5. SPECIAL ASSESSMENTS.** If the Board at any time, or from time to time, determines that the annual maintenance charges assessed for any period are insufficient to provide for the continued operation of the Subdivision or any other purposes contemplated by these Restrictions, then the Board shall have the authority to levy such special assessments ("special assessments") as it shall deem necessary to provide for such continued maintenance and operation. No special assessment shall be effective until the same is approved by the vote of not less than two-thirds (2/3) of each class of Members. Any such special assessment shall be payable in the manner determined by the Board and the payment thereof may be enforced in the manner herein specified for the payment of the annual maintenance charges.

**SECTION 5.6. ENFORCEMENT OF ANNUAL MAINTENANCE CHARGE.** The annual maintenance charge assessed against each Lot shall be due and payable, in advance, on the date of the sale of such Lot by Declarant for that portion of the calendar year remaining, and on the first (1st) day of each January thereafter, provided that the Board of Directors have the sole discretion to allow an annual maintenance charge to be paid in monthly or quarterly installments. Any annual maintenance charge which is not paid and received by the Association by the thirty-first (31 st) day of each January thereafter or other due date established by the Board shall be deemed to be delinquent, and, without notice, shall bear interest at the rate of eighteen percent (18) per annum or the maximum rate allowed by law, whichever is less, from the date originally due until paid. Further, the Board of Directors of the Association shall have the authority to impose a monthly late charge on any delinquent annual maintenance charge. The monthly late charge, if imposed, shall be in addition to interest. To secure the payment of the annual maintenance charge, special assessments levied hereunder and any other sums due hereunder (including, without limitation, interest, late fees, attorney's fees or delinquency charges), there is hereby created and fixed a separate and valid and subsisting lien upon and against each Lot and all Improvements thereto for the benefit of the Association, and superior title to each Lot is hereby reserved in and to the Association. The lien described in this Section 5.6 and the superior title herein reserved shall be deemed subordinate to any mortgage for the purchase of any Lot and any renewal, extension, rearrangements or refinancing thereof. The collection of such annual maintenance charge and other sums due hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs and attorney's fees shall be chargeable to and be a personal obligation of the defaulting Owner. Further, the voting rights of any owner in default in the payment of the annual maintenance charge, or other charge owing hereunder for which an Owner is liable, and/or any services provided by the Association, may be suspended by action of the Board for the period during which such default exists. Notice of the lien referred to in the preceding paragraph may, but shall not be required to, be given by the recordation in the office of the County Clerk of Harris County, Texas of an affidavit, duly executed, and acknowledged by an officer of the Association, setting forth the amount owned, the name of the Owner or Owners of the affected Lot, according to the books and records of the Association, and the legal description of

such Lot. Each Owner, by acceptance of a deed to his Lot, hereby expressly recognizes the existence of such lien as being prior to his ownership of such Lot and hereby vests in the Association the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid annual maintenance charge and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure pursuant to Chapter 51 of the Texas Property Code (as same may be amended or revised from time to time hereafter) and in addition to and in connection therewith, by acceptance of the deed to his Lot, each Owner expressly grants, bargains, sells and conveys to the President of the Association from time to time serving, as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid annual maintenance charge, and other sums due hereunder remaining unpaid hereunder by such Owner from time to time and grants to such trustee a power of sale. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and filed in the office of the County Clerk of Harris County, Texas. In the event of the election by the Board to foreclose the lien herein provided for nonpayment of sums secured by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, to enforce the lien and to sell such Lot, and all rights appurtenant thereto, in accordance with the provisions of Chapter 51 of the Texas Property Code as same may hereafter be amended. At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer without further notice.

**SECTION 5.7. SUMS PAYABLE BY DECLARANT.** Notwithstanding any provision in this Declaration to the contrary, so long as Declarant owns any Lot in the Subdivision, Declarant shall pay to the Association each year a sum equal to twenty-five percent (25) of the operating budget of the Association for that year or any deficiency in the operating budget, whichever is less.

**SECTION 5.8. RESERVE ASSESSMENT.** Upon the first sale of a Lot subsequent to the completion of a Residential Dwelling thereon, the purchaser of the Lot shall pay \$250.00 to the Association (such sum being referred to herein as the "Reserve Assessment"). The Reserve Assessment shall be due and payable at closing or on the date the deed conveying the Lot to the purchaser is recorded or, if a contract for deed or similar instrument, the date the contract for deed is executed, whichever occurs earlier. Payment of the Reserve Assessment shall be in default if the Reserve Assessment is not paid on or before the due date for such payment. Reserve Assessments in default shall bear interest at the rate of eighteen percent (18) per annum from the due date until paid. All Reserve Assessments collected by the Association shall be used by the Association as the Board deems appropriate, including capital improvements, the repair or refurbishment of the Common Areas, and the administration, management and operation of the Subdivision. No Reserve Assessment paid by an Owner shall be refunded to the Owner by the Association. The Association may enforce payment of the Reserve Assessment in the same manner which the Association may enforce payment of annual and special assessments pursuant to this Article V.

**SECTION 5.9. NOTICE OF SUMS OWING.** Upon the written request of an Owner, the Association shall provide to such Owner a written statement setting out the then current total of all maintenance charges, special assessments, and other sums, if any, owing by such Owner with respect to his Lot. In addition to such Owner, the written statement from the Association so advising the Owner may also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, as

same may be identified by said Owner to the Association in the written request for such information. The Association shall be entitled to charge the Owner a reasonable fee for such statement.

**SECTION 5.10. FORECLOSURE OF MORTGAGE.** In the event of a foreclosure of a mortgage on a Lot, the purchaser at the foreclosure sale shall not be responsible for maintenance charges, special assessments, or other sums, if any, which accrued and were payable to the Association by the prior Owner of the Lot, but said purchaser and its successors shall be responsible for maintenance charges, special assessments, and other sums, if any, becoming due and owing to the Association with respect to said Lot after the date of foreclosure.

## ARTICLE VI

### Insurance; Security

**SECTION 6.1. GENERAL PROVISIONS.** The Association shall, to the extent reasonably available, have and maintain (a) commercial general liability insurance in an amount determined by the Board covering all occurrences commonly insured against for death, bodily injury and property damage, (b) Directors' and Officers' liability insurance in an amount determined by the Board, and (c) worker's compensation insurance on all Association employees. Other insurance may be obtained if determined by the Board to be necessary or desirable. All premiums for insurance shall be an expense of the Association which shall be paid out of the Maintenance Fund.

**SECTION 6.2. INDIVIDUAL INSURANCE.** Each Owner, tenant or other person occupying a Residential Dwelling, shall be responsible for insuring his lot and his Residential Dwelling, its contents and furnishings. Each Owner, tenant or other person occupying a Residential Dwelling, shall, at his own cost and expense, be responsible for insuring against the liability of such Owner, tenant or occupant.

**SECTION 6.3. INDEMNITY OF ASSOCIATION.** Each Owner shall be responsible for any costs incurred as a result of such Owner's negligence or misuse or the negligence or misuse of his family, tenants, guests, invitees, agents, employees, or any resident or occupant of his Residential Dwelling, and by acceptance of a deed to a Lot does hereby indemnify the Association, its officers, directors and agents, and all other Owners against any such costs.

**SECTION 6.4. SECURITY. THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS AND ATTORNEYS, ("ASSOCIATION AND RELATED PARTIES") SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. THE ASSOCIATION AND RELATED PARTIES SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. OWNERS, LESSEE AND OCCUPANTS OF ALL LOTS, ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES, OR OTHER SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR**

**WHICH THE SYSTEM IS DESIGNED OR INTENDED. OWNERS, LESSEES, AND OCCUPANTS OF LOTS ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION AND RELATED PARTIES ARE NOT AN INSURER AND THAT EACH OWNER, LESSEE AND OCCUPANT OF ANY LOT AND ON BEHALF OF THEMSELVES AND THEIR GUESTS AND INVITEES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENTIAL DWELLINGS AND TO THE CONTENTS OF THEIR RESIDENTIAL DWELLING AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR LESSEE ON BEHALF OF THEMSELVES AND THEIR GUESTS OR INVITEES RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.**

## **ARTICLE VII**

### **Fire or Casualty: Rebuilding**

**SECTION 7.1. REBUILDING.** In the event of a fire or other casualty causing damage or destruction to a Lot or the Residential Dwelling located thereon, the Owner of such damaged or destroyed Lot or Residential Dwelling shall within ninety (90) days after such fire or casualty contract to repair or reconstruct the damaged portion of such Lot or Residential Dwelling and shall cause such Lot or Residential Dwelling to be fully repaired or reconstructed in accordance with the original plans therefore, or in accordance with new plans presented to and approved by the Architectural Review Committee, and shall promptly commence repairing or reconstructing such Residential Dwelling, to the end that the Residential Dwelling shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. Alternatively, such damaged or destroyed Residential Dwelling shall be razed and the Lot restored as nearly as possible to its original condition within ninety (90) days of its damage or destruction. In the event that the repair and reconstruction of the Residential Dwelling has not been commenced within ninety (90) days after such fire or casualty and the damaged or destroyed Residential Dwelling has not been razed and the Lot restored to its original condition, the Association and/or any contractor engaged by the Association, shall upon ten (10) days written notice to the Owner at the Owner's last known mailing address according to the records of the Association, shall have the authority but not the obligation to enter upon the Lot, raze the Residential Dwelling and restore the Lot as nearly as possible to its original condition. Any costs incurred by the Association to raze the Residential Dwelling and to restore the Lot to its original condition, plus fifty percent (50) of such costs for overhead and supervision, shall be charged to the Owner's assessment account and collected in the manner provided in Article V of this Declaration.

## ARTICLE VIII

### **Amendment, Duration, Annexation and Merger**

**SECTION 8.1. AMENDMENT.** Except as otherwise provided by law, the provisions of this Declaration may be amended at any time by an instrument in writing signed by the Secretary of the Association certifying that Owners representing not less than two-third (2/3) of the Lots have voted in favor of such amendment, setting forth the amendments, and duly recorded in the office of the County Clerk of Harris County, Texas. As long as there is Class B membership in the Association, amendment of this Declaration shall also require the consent of the Federal Housing Administration and the Veterans Administration. Without joinder of Declarant, no amendment may diminish the rights of or increase the liability of Declarant under these Restrictions. Notwithstanding the foregoing, until the First Elected Board is elected in accordance with Article IV, Section 4.4, of this Declaration, Declarant shall have the right to amend this Declaration, without the joinder or consent of any other party, for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors, or omissions; provided, however, any such amendment shall be consistent with and in furtherance of the general plan and scheme of development for the Subdivision.

**SECTION 8.2. DURATION.** The provisions of this Declaration shall remain in full force and effect until January 1, 2030, and shall be extended automatically for successive ten (10) year periods; provided however, that this Declaration may be terminated on January 1, 2030, or on the commencement of any successive ten year period by filing for record in the office of the County Clerk of Harris County, Texas, an instrument in writing signed by Owners representing not less than seventy-five percent (75) of the Lots in the Subdivision.

**SECTION 8.3. ANNEXATION.** Additional land may be annexed and subjected to the provisions of this Declaration by Declarant, without the consent of the Members, within ten (10) years of the date that this Declaration is recorded in the Official Public Records of Real Property of Harris County, Texas; provided that, so long as there is Class B membership in the Association, annexation of additional property must be first approved by the Federal Housing Administration and/or the Veterans Administration. Thereafter, additional land may be annexed and subjected to the provisions of this Declaration only with the consent of not less than two-thirds (2/3) of the Members of the Association present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present. The annexation of additional land shall be effective upon filing of record an annexation instrument in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 8.4. MERGER.** Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the merging or consolidating associations as one scheme. No such merger or consolidation shall effect any revocation, change or addition to these Restrictions.

## **ARTICLE IX**

### **Miscellaneous**

**SECTION 9.1. SEVERABILITY.** In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

**SECTION 9.2. NUMBER AND GENDER.** Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

**SECTION 9.3. ARTICLES AND SECTIONS.** Article and section headings in these Restrictions are for convenience of reference and shall not affect the construction or interpretation of these Restrictions. Unless the context otherwise requires references herein to articles and sections are to articles and sections of these Restrictions.

**SECTION 9.4. DELAY IN ENFORCEMENT.** No delay in enforcing the provisions of these Restrictions with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

**SECTION 9.5. LIMITATION OF LIABILITY.** Notwithstanding anything provided herein to the contrary, neither the Declarant, the Architectural Review Committee, the Association, nor any agent, employee, representative, member, shareholder, partner, officer or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Owner on account of (a) any defects in any plans and specifications submitted, reviewed, or approved in accordance with the provisions of Article III above, (b) any defects, structural or otherwise, in any work done according to such plans and specifications, (c) the failure to approve or the disapproval of any plans, drawings, specifications or other data submitted by an Owner for approval pursuant to the provisions of Article III, (d) the construction or performance of any work related to such plans, drawings and specifications, (e) bodily injuries (including death) to any Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or occupant, or other damage to any Residential Dwelling, Improvements- or the personal property of any Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or occupant, which may be caused by, or arise as result of, any defect, structural or otherwise, in any Residential Dwelling or Improvements or the plans and specifications thereof or any past, present or future soil and/or subsurface conditions, known or unknown and (f) any other loss, claim, damage, liability or expense, including court costs and attorney's fees suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Lot, Residential Dwelling, or any other Improvements situated thereon.

**SECTION 9.6. ENFORCEABILITY.** These Restrictions shall run with the Subdivision and shall be binding upon and inure to the benefit of and be enforceable by Declarant, the Association, each Owner of a Lot in the Subdivision, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. If notice and an opportunity to be heard are given the Association shall be entitled to impose reasonable fines for violations of the Restrictions or any rules and regulations adopted by the Association or the Architectural Review Committee pursuant to any authority conferred by either of them by these Restrictions and to collect reimbursement of actual

attorney's fees and other reasonable costs incurred by it. relating to violations of the Restrictions. Such fines, fees and costs may be added to the Owner's assessment account and collected in the manner provided in Article V of this Declaration.

**SECTION 9.7. REMEDIES.** In the event any one or more persons, firms, corporations or other entities shall violate or attempt to violate any of the provisions of the Restrictions, the Declarant, the Association, each Owner or occupant of a Lot within the Subdivision, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation. Upon the violation of any of the provisions of these Restrictions by any Owner, in addition to all other rights and remedies available to it at law, in equity or otherwise, the Association, acting through the Board, shall have the right to suspend the right of such Owner to vote in any regular or special meeting of the members during the period of the violation

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration on this the 17<sup>th</sup> day of August, 2000, to become effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

DONALD FARRELL DEVELOPMENT  
CO., LTD., its General Partner

By: *Keith Radcliffe*  
Print Name:

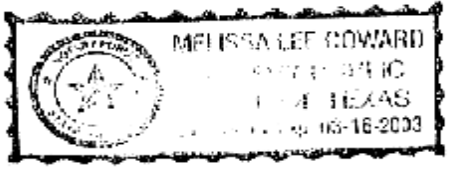
Its: KEITH RADCLIFFE  
PRESIDENT OF THE KFARRELL COMPANY  
SOLE GENERAL PARTNER OF KFARRELL I, LTD.

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Keith Radcliffe known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 17<sup>th</sup> day of August, 2000.

*Melissa Lee Coward*  
Notary Public in and for the State of Texas *exp 3-16-0*



JOINDER OF LIENHOLDER

The undersigned, Amresco Builder Finance Group, being the owner and holder of an existing mortgage and lien upon and against the real property described in the foregoing Declaration and defined as the "Property" in said Declaration, as such mortgagee and Lienholder, does hereby consent to and join in said Declaration of Covenants, Conditions and Restrictions for Parkside at Perry.

This consent and joinder shall not be construed or operate as a release of said mortgage or lien owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and lien shall hereafter be upon and against the Lots and all appurtenances thereto, and all Common Area, subject to the provisions of the Declaration hereby agreed to.

SIGNED AND ATTESTED by the undersigned officers of Amresco Builder Finance Group, heretofore authorized, this the 18<sup>th</sup> day of August, 2000.

AMRESCO BUILDER FINANCE GROUP

By: [Signature]  
Title: President/Managing Director

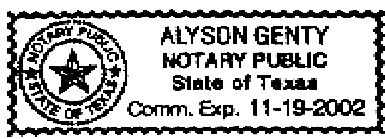
ATTEST:

\_\_\_\_\_

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

Before me, the undersigned authority, on this day personally appeared John T. DeSpain ~~President~~ <sup>Managing Director</sup> of Amresco Builder Finance Group, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 18<sup>th</sup> day of August, 2000.



[Signature]  
Notary Public in and for the State of Texas