

CONDOMINIUM DECLARATION

OF

**HERON'S NEST LUXURY RESIDENCES AT HARBOR LAKES, A
CONDOMINIUM PROJECT**

STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HOOD

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§

DRECOL PROPERTIES, LLC, a Texas limited liability company, having its principal office at 221 Eastridge Road, Granbury, Texas 76049, hereinafter called "Declarant", is the Owner of certain real property situated in the County of Hood, State of Texas, being described more fully on Exhibit "A", which by this reference is made a part hereof (the "Property"), which Property is subject to certain easements and restrictions described on Exhibit "A-1"; and

WHEREAS, Declarant desires to establish a Condominium Regime under the Uniform Condominium Act of the State of Texas, Section 82.001 et. seq., of the Texas Property Code herein called the "Act"; and

WHEREAS, the improvements on the aforesaid real property shall consist of up to a maximum of four (4) Building(s) and other improvements appurtenant thereto, which consists of a maximum of eighteen (18) separately designated Condominium Units known as Heron's Nest Luxury Residences at Harbor Lakes, a Condominium Project (the "Condominium Project").

WHEREAS, Declarant hereby establishes a plat for the individual ownership in fee simple of estates consisting of the area or space contained in each of the Units, herein called the "Condominium Regime", in the Buildings and the co-ownership by the Owners thereof, as tenants-in-common, of all the remaining property, which includes both Limited Common Elements and General Common Elements, as hereinafter defined in Section 1.1 hereof, and which are hereinafter collectively referred to as the "Common Elements".

NOW, THEREFORE, Declarant does hereby submit the real property described on the attached Exhibit "A", and the improvements hereinafter described, to the provisions of the Act and the Condominium Regime, and does hereby publish and declare that the following terms, covenants, conditions, easements, restriction, uses, limitations and

obligations shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and to any person acquiring or owning an interest in the real property and improvements hereinafter described, their grantees, successors, heirs, executors, administrator, devisees and assigns.

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ARTICLE I

DEFINITIONS AND TERMS

1.1 DEFINITIONS OF TERMS.

As used in this agreement, the following terms shall have the following meanings unless the context shall expressly provide otherwise:

A. "Approximate Measurements". It is expressly stipulated, and each and every Owner, his or her heirs, devisees, legal and personal representatives, and successors and assigns accepting title to a Condominium Unit subject to this Declaration acknowledge, that the square footage, size and linear dimensions of each Unit (as shown on the Condominium Plat), and each area constituting any part of the Common Elements as set out and shown in this Declaration or the plat and documents attached hereto, are approximate and are shown for descriptive purposes only and do not necessarily reflect or represent the precise percentage of square footage of any specific portion of the Condominium Project, and that Declarant does not warrant, represent or guarantee that any Unit actually contains the square footage, size and linear dimensions and elevation reflected thereon or herein. Each Owner further acknowledges that he or she shall have had full opportunity, and is under a duty, to inspect and examine his or her Unit prior to the purchase thereof and agrees that the Unit is purchased as actually and physically existing, and expressly waives any claim or demand of any kind which he or she may have against Declarant or any person whomsoever by reason of any difference, shortage or discrepancy between such Owner's Unit as actually and physically existing and as reflected on the Condominium Plat.

B. "Board" or "Board of Directors" shall refer to the Board of Directors of HERON'S NEST AT HARBOR LAKES HOMEOWNERS ASSOCIATION, INC.

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C. "Buildings" shall refer to the two (2) buildings depicted on Exhibit "B" ²³⁷⁸ which is attached hereto and identified as Building I and Building II and ~~the~~ two (2) buildings depicted on Exhibit "B" and labeled "MUST BE BUILT" that will be subsequently added to the scheme of this Declaration by Supplemental Declaration (herein so called).

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D. "Common Assessment or "Regular Assessment" means the charge against each Unit Owner and his or her Unit, representing a portion of the total costs to the Association of maintaining, improving, repairing, replacing, managing and operating the Property, which are to be paid by each Owner of the Association, as provided herein. This shall also include charges assessed against each Owner to maintain a reserve for replacement fund and to cover costs incurred by the Association to participate in any condemnation suit, as provided in Section 6.1 hereof.

E. "Common Expenses" means and includes:

- (1) All sums lawfully assessed against the General Common Elements by the Board;
- (2) All expenses of administration and management, maintenance, operation, repair or replacement of and to the General Common Elements (including unpaid Special Assessments);
- (3) Expenses agreed upon as Common Expenses by the Unit Owners; and
- (4) Expenses declared to be Common Expenses by this Declaration or by the Bylaws.

F. "Completed Unit" means a Unit ready for occupancy by an Owner other than the Declarant.

G. "Condominium Owners Association" or "Association" means HERON'S NEST AT HARBOR LAKES HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation, the Bylaws of which shall govern the administration of this Condominium Property and the membership of which shall be composed of all the Owners of the Condominium Units according to such Bylaws.

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- H. "Condominium Unit" shall mean an individual Unit together with the interest in the Common Elements (General or Limited) appurtenant to such Unit.
- I. "Declarant" shall mean DRECOL PROPERTIES, LLC, a Texas limited liability company, or its successors or assigns that acquired a portion of the Property for the purpose of development and which are expressly designated as the "Successor Declarant" (herein so called) in a recorded instrument and such Successor Declarant expressly assume in writing the obligations and duties of Declarant under this Declaration from and after the date of such assignment.
- J. "Declaration" shall mean this Condominium Declaration instrument.
- K. "Declarant Control Period" means that period of time during which Declarant controls the operation and management of the Association, pursuant to Article IX of this Declaration. The duration of the Declarant Control Period is from the date this Declaration is recorded for a maximum period not to exceed the earlier of (1) 3 years from date this Declaration is recorded, or (2) 120 days after title to 75 percent of the Units in the Property has been conveyed to Owners other than Declarant.
- L. "Development Period" means the 7-year period beginning the date this Declaration is recorded, during which Declarant has certain rights pursuant to Article IX below and other provisions of this Declaration, including rights relating to development, construction, expansion, and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own any portion of the property described in Exhibit A. Declarant may terminate the Development Period at any time by recording a notice of termination.
- M. "Development Rights" shall mean those rights reserved by Declarant in Article IX below.
- N. "Documents" means, singly or collectively as the case may be, this Declaration, the Plat and Plans recorded pursuant to the Act, the Bylaws, the Association's Articles of Formation, and the Rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Document is a part of that Document.
- O. "General Common Elements" means a part of the Common Elements, excluding, however, the Limited Common Elements, that includes:

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- (i) The Land, including the private streets, sidewalks, walkways, security facilities, landscaping and parking areas (excluding an individual Unit's garage);
 - (ii) The main, common and bearing walls, girders, slabs, beams and columns (excluding any windows and doors therein), exterior walls to interior of studs, structural and supporting parts of the Buildings, roofs, roof decking, areas used for storage of maintenance and janitorial equipment and materials, communications ways, storage areas, service easements, and any other portion of the Buildings not included within any Unit or designated hereby as a Limited Common Element;
 - (iii) The premises, facilities and tangible personal property, if any, used for the common storage, maintenance, operation or repair of the Condominium Project;
 - (iv) Cable receivers, other telephone, cable, video and fiber optic facilities and all equipment appurtenant thereto (if any);
 - (v) The components or installation of equipment and materials comprising central services such as electrical power, gas, and all similar devices and installations which serve more than one Unit;
 - (vi) All other elements necessary to the existence, upkeep and safety of the Condominium Project including any portion of the Buildings and the Land not specifically a Unit, appurtenant to a Unit or a Limited Common Element;
 - (vii) All other structures, facilities and equipment owned by the Association and located on the Condominium Project; and
 - (viii) All replacements and additions to any of the foregoing.

P. "Lienholder" and "First Mortgagee" shall mean the holder of a first mortgage lien on any Unit in the Condominium Project.

Q. "Limited Common Elements" means and includes those Common Elements which are reserved for the exclusive use of an individual Owner of a Unit or a

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certain number of individual Owners of Units, for the exclusive use of those Owners, which may include:

- (1) Balcony, courtyard, patio or entryway structures serving exclusively a single Unit or one (1) or more adjoining Units, including the Balcony, patio and/or courtyard, if any, as reflected on the Plans (herein so called) Exhibit "B"; and
 - (2) Air handlers, HVAC systems, pipes, ducts, electrical wiring and conduits located entirely within a Unit or serving only such Unit, and such portions of the perimeter walls, floors and ceilings, doors, windows, entryways, and all associated fixtures and structures therein, as lie outside the Unit boundaries.
- R. "Majority of Unit Owners" means those Owners with fifty-one percent (51%) of the votes entitled to be cast.
- S. "Master Association" means the Harbor Lakes Homeowners Association, Inc., a Texas nonprofit corporation.
- T. "Master Declaration:" means the Amended and Restated Covenants, Conditions and Restrictions of Harbor Lakes recorded in Volume 1755, Page 0738 of the Real Property Records of Hood County, Texas, as amended and supplemented, including that certain Declaration of Annexation and Supplemented Declaration No. 3, annexing this Property into the scheme of the Master Declaration.
- U. "Master Declarant" means Forestar (USA) Real Estate Group Inc. formerly known as Lumbermen's Investment Corporation, by change of name only.
- V. "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.
- W. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof, who owns, of record title to one (1) or more Condominium Units.
- X. "Plat" mean or include the engineering survey of the land, locating thereon all of the improvements, the floor and elevation plat and any other drawing or diagrammatic plat depicting a part of, or all of, the improvements, same being herewith filed, labeled Exhibit "B".

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Y. "Percentage" or "Ownership Percentage" shall mean the percentages described in Exhibit "C".

Z. "Premises", "Project" or "Property" means and includes the land, the Building and all improvements and structures thereon and all rights, easements and appurtenances belonging thereto.

AA. "Special Assessments". In addition to the Regular Assessments described above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of paying, in whole or in part:

- (1) The cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto; or
- (2) The expense of any other contingencies or unbudgeted costs; provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to the interest in the Common Elements owned by each. The Association, after due notice and hearing, shall also have the authority to establish and fix a Special Assessment upon any Unit to secure the liability of the Owner of such Unit to the Association for any breach by such Owner of any of the provisions of this Declaration, which breach shall require an expenditure by the Association for repair or remedy. Special Assessments may be billed or collected on a monthly basis. The above mentioned liability of any Owner is to be established as set forth in this Declaration.

BB. "Unit"

1. Unit Boundaries. The boundaries and identifying number of each Unit are shown on the Plat and Plans attached as Exhibit "B". The boundaries are further described as follows:

- (1) Lower Horizontal Boundary: The top surface of the concrete

subflooring is the Unit's lower horizontal boundary. In other words, the concrete subflooring is a Common Element, but anything affixed to the subflooring is part of the Unit. PG.

- (2) **Upper Horizontal Boundary:** The interior surface of the attic below the decking of the roof is the Unit's upper horizontal boundary. In other words, the attic is part of the Unit up to the underside of the roof's decking and the roof's decking and above is a Common Element.
- (3) **Vertical Perimeter Boundaries:** On the perimeter walls of the Unit, the Unit's vertical boundaries are (i) the exterior (outside) surfaces of the sheetrock comprising the perimeter walls inclusive of the garage (ii) the exterior (outside) surfaces of window glass and window frames; (iii) the exterior (outside) surfaces of closed perimeter doors including garage doors. In other words, the sheetrock on perimeter walls, window glass, window frames and exterior doors are part of the Unit.

2. **What the Unit Includes:** Each Unit includes the spaces and improvements within the perimeter walls, floors (excluding concrete side of flooring and below), the attic, windows, skylights, exterior and interior doors of the Unit and the underside of the roof deck. Each Unit also includes the garage, garage door, improvements and equipment serving the Unit exclusively, whether located inside or outside the physical boundaries of the Unit, whether or not attached to or contiguous with the physical boundaries of the Unit, including the following: electricity meter, fuse box, electrical switches, wiring, pipes, ducts, conduits, smoke or fire detectors, security systems, television antenna, cable equipment, doors, windows, door and window locks, peepholes, lighting fixtures (including recessed cams), skylights, telephone and electrical receptacles, heating and cooling equipment and systems, and any other utility-related item from the point of its connection with common lines or systems. In other words, in addition to the inside of a Unit, an Owner also owns certain physical components of the Property that exclusively serve the Unit even though located outside the boundaries of the Unit.

3. **Exclusions.** Except as specifically included above, each Unit excludes the spaces and improvements lying outside of the perimeter boundaries of the Unit, including balconies, yards and patio decks. Each Unit also excludes any chute, pipe, flue, duct, wire, or conduit running through a Unit for the

purpose of furnishing utility and similar services to other Units and/or PG. Common Elements.

4. Inconsistency with Plans: If the foregoing description of Unit boundaries is inconsistent with the Plats and Plans, then this Section will control.

CC. "Underwriting Lender" means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (HUD/FHA), Federal National Mortgage Association (Fannie Mae), or Government National Mortgage Association (Ginnie Mae), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an Owner's financing options nor as a representation that the Property is approved by any institution.

1.2 Statutory Terms. Unless specifically defined in this Declaration all other capitalized terms shall have the meaning set forth on the Act.

ARTICLE II

CONDOMINIUM UNIT DESIGNATIONS AND DESCRIPTIONS

2.1 The Plat and Plans attached as Exhibit "B" consists of and sets forth:

- A. The legal description of the surface of the land;
- B. The linear measurements and locations, with reference to the exterior boundaries of the land, of the Buildings and all other improvements constructed on said land;
- C. The exterior boundaries and number of each Unit, expressing its square footage.
- D. The location of each Unit in the Buildings and showing the number of the Unit.

2.2 **DESIGNATION OF UNITS AND ALLOCATION OF INTERESTS.**

- A. The property is hereby divided into separately designated Units within each Building. Each Unit is identified by number, which number will correspond to the street address of each such Unit. Each Building is designated by

number. The remaining portion of the Property, referred to as the Common Elements, shall be owned in common by the Owners. The Owners of each Unit shall own an undivided interest in said Common Elements, the Ownership Percentage thereof for each completed Unit being as shown on the attached Exhibit "C". The maximum number of Units that Declarant reserves the right to create within the Condominium Project is eighteen (18) Units located within a maximum of four (4) Buildings. The minimum number of Units that Declarant is required to construct is eighteen (18) Units located within four (4) Buildings.

B. Allocation of Percentage Interests and Reservation of Right of Declarant to Re-allocate Percentage Interest. The Percentage Interests have been allocated in accordance with the formulas set out in this Section. The Percentage Interests allocated to each Condominium Unit are calculated by the following formulas:

Condominium Unit's
Percentage Interest = $\frac{\text{Total square foot of floor space of a Unit (including garage)}}{\text{Total square footage of floor space of all Units (including garages)}}$

DURING DECLARANT'S DEVELOPMENT PERIOD AT SUCH TIME THAT DECLARANT FILES A SUPPLEMENTAL PLAT AND PLANS AND SUPPLEMENTAL DECLARATION ADDING BUILDINGS AND UNITS TO THIS CONDOMINIUM REGIME, ALL OWNERS' RESPECTIVE PERCENTAGE INTEREST IN THE COMMON ELEMENTS SHALL BE ADJUSTED AND REALLOCATED BASED ON THE FORMULA SET FORTH ABOVE. DECLARANT SHALL BY A SUPPLEMENTAL DECLARATION RECORD THE REALLOCATED PERCENTAGE INTEREST AND SEND EACH OWNER A COPY OF SUCH SUPPLEMENTAL PLAT AND SUPPLEMENTAL DECLARATION. EACH OWNER AND EACH OWNERS RESPECTIVE SUCCESSORS AND ASSIGNS ACKNOWLEDGE AND AGREE BY ACCEPTING A DEED OF A UNIT EACH SUCH OWNER'S UNIT PERCENTAGE INTEREST IN THE COMMON ELEMENTS AND VOTING RIGHTS WILL BE SUBJECT TO ADJUSTMENT AND REALOCATION AS PROVIDED HEREIN.

C. Common Element Interests. The percentage of undivided interest in the Common Elements allocated to each Unit is based on square footage of floor space for each Unit (inclusive of garage, but exclusive of attic or crawl space), compared to the total estimated square footage of floor space

for all Units (inclusive of garages, but exclusive of attics or crawl space) within the Project. Percentages may be rounded up or down to facilitate calculations. Also, Units of the same plan type may have allocations that differ slightly to facilitate the calculation of 100 percent.

D. Common Expense Liabilities. The percentage of liability for common expenses allocated to each Unit is based on the same formula for Common Element Interests.

2.3 LIMITED COMMON ELEMENTS.

Portions of the Common Elements are set aside and reserved for the exclusive use of the individual Owners, such areas being Limited Common Elements. The Limited Common Elements reserved for the exclusive use of the individual Owners are more particularly described in Section 1.1. Such Limited Common Elements shall be used and maintained by the Owner of each such Unit in connection with the particular Unit, to the exclusion of the use thereof by the other Owners, except by invitation; however the Association shall have the right to establish rules and regulations related to such Limited Common Elements, including the assessments of fines for failure to maintain such Limited Common Elements.

2.4 REGULATION OF COMMON ELEMENTS.

The Common Elements, except as otherwise expressly provide herein, shall be maintained by the Association and the expenses incurred in connection therewith shall be Common Expenses.

2.5 INSEPARABLE UNITS.

Each Unit and its corresponding prorata interest in and to the Common Elements appurtenant thereto shall be inseparable and may not be conveyed, leased or encumbered separately, and shall at all times remain indivisible.

2.6 DESCRIPTIONS.

Every deed, lease, mortgage, trust deed or other instrument may legally describe the Condominium Unit by its Unit number all as shown on the Plat, followed by the words HERON'S NEST LUXURY RESIDENCES AT HARBOR LAKES, A CONDOMINIUM PROJECT, and by reference to this recorded Declaration and

Plat. Every such description shall be deemed good and sufficient for all purposes to ^{top} convey, transfer, encumber or otherwise describe the Common Elements.

2.7 ENCROACHMENTS AND EASEMENTS.

Easements: The ownership of each Unit shall be subject to the easements which are described in this Section 2.7.

A. For Owners. Each Owner shall have the following easements to, through and over the Common Elements to the extent necessary for such Owners maintenance responsibilities:

- (i) to paint, remove and replace any finish on the interior surface within his or her Unit;
- (ii) to install, repair, maintain, remove and/or replace any plumbing, heating, cooling, lighting, cooking or other fixture or equipment which is a part of his or her Unit or which would become a part thereof when installed in any bearing wall, floor, ceiling or roof; provided, however, that such installation, repair, maintenance, removal and/or replacement shall not impair the structural integrity of the Buildings, nor shall it adversely affect any adjacent Unit, nor shall it alter the external appearance of the Buildings;
- (iii) to drive and remove nails, screws, bolts and the like into and from bearing walls and roof; provided, however, that such action shall not impair the structural integrity of the Buildings, nor shall it adversely affect any adjacent Unit, nor shall it alter the exterior appearance of the Buildings; and

B. For Utilities. Municipalities and authorized public utilities (or private companies) furnishing services, lines, pipes, wires, conduits, facilities and equipment to the Condominium Project for common use such as water, electricity, gas, cable television or similar services, and/or telephone shall have access to the Common Elements and each Unit as may be necessary or desirable for the installation, repair, maintenance, removal and/or replacement of such services, and any costs incurred in opening and repairing any wall of the Condominium Project to install, repair, maintain, remove or replace such authorized services (except as otherwise provided

herein) shall be a Common Expense; provided, however, installed utility lines, public or private, shall be considered to be located in a valid easement and may remain in the installed location and be repaired and/or replaced in such location.

C. For the Declarant and the Association. Declarant and the Association (and their duly authorized representatives and agents) shall have a reasonable right of entry upon any Unit to: (i) make emergency repairs, (ii) enforce the terms of the Condominium Documents (as defined in the Act) and the Rules and Regulations, (as defined in the Texas Uniform Condominium Act) (iii) to protect the property rights and welfare of other Owners, (iv) to do other work reasonably necessary for the proper maintenance or operation of the Condominium Project, (v) to perform any of the duties and obligations of Declarant and the Association which are set forth in the Condominium Documents and the Rules and Regulations, (vi) to prevent or terminate waste of water purchased by the Association as a common expense, and (vii) to perform maintenance and repairs to a Unit that, if not performed, may result in increased damage by water to components of the Condominium Project that the Association maintains. Except in the event of an emergency, or in the event the Board or its agents are unable to contact any Owner or occupant of a Unit after reasonable effort, such right of entry shall be exercised only in the presence of the Owner or other occupant of the Unit entered. Such right of entry shall be exercised in a manner as to avoid unreasonable interference with the possession, use or enjoyment of the Unit and shall, whenever reasonably possible, be preceded by reasonable notice to the Owner or occupant thereof. In the event any damage is caused by such entry such damage shall be a Common Expense. The Association shall have duplicate keys sufficient to permit access to each Unit. The Association shall have the right to grant permits, licenses and easements on, over under and across the Common Elements for utility, access and other purposes reasonably necessary or useful for the proper maintenance, enjoyment and operation of the Condominium Project.

D. For Encroachments. If any portion of the Common Elements shall be situated or encroach upon any Unit, or if any Unit or shall actually encroach upon any portion of the Common Elements, as the Units and Common Elements actually and physically exist, or as shown by the Condominium Plat, then there shall be deemed to be mutual valid easements for such encroachments and for the maintenance of same so long as such encroachments exist; provided, however, such easement or easements shall

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not relieve an Owner of liability in case of the Owner's willful misconduct or failure to adhere to the Condominium Plat. In the event one or more of the Buildings or other structure are totally or partially damaged or destroyed and then repaired, restored or rebuilt, the Owners of the Units agree that all encroachments of or upon the Common Elements due to repair or reconstruction shall be permitted and that a valid easement for such encroachments and maintenance thereof shall exist.

2.8 GOVERNMENTAL ASSESSMENT.

Declarant shall give written notice to the Tax Assessor's Office of the creation of Condominium Ownership of this Property, as is provided by law, so that each Unit and its percentage or fraction of undivided interest in the Common Elements shall be deemed a separate parcel and subject to separate assessment and taxation.

2.9 USE AND OCCUPANCY RESTRICTIONS.

A. Subject to the provisions of this Declaration and Bylaws, no Unit may be used for purposes other than single family residential housing, and the related common purposes for which the Property was designed. Each Unit or any two (2) or more adjoining Units used together shall be used for single family residential purposes or such other uses permitted by this Declaration, and for no other purposes. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from:

- (1) Maintaining his personal office;
- (2) Keeping his personal business or professional records or accounts; or
- (3) Handling his personal business or professional telephone calls or correspondence, which uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions. However, no Unit Owners may use his or her Unit for the purpose of having meetings or appointments which would (i) otherwise violate zoning regulations and/or (ii) result in regular or semi-regular business invitees to the Unit.

B. That part of the Common Elements separating and located between and exclusively serving two (2) or more adjacent Units used together (including, without limitation, portions of any walls) may be altered with written consent

of the Board, as provided in Section 3.8 herein, to afford ingress to and egress from such Units and to afford privacy to the Occupants of such Units when using such Common Elements, and that part of the Common Elements so altered may be used by the Unit Owner or Owners of such Units as a licensee pursuant to a license agreement with the Association, provided:

- (1) The expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alterations;
 - (2) Such Unit Owner or Owners shall pay in full the expense of restoring such Common Elements to their condition prior to such alteration in the event such Units shall cease to be used together, as aforesaid; and
 - (3) Such alteration shall not interfere with use and enjoyment of the Common Elements (other than the aforesaid part of the Common Elements separating such adjacent Units), including, without limitation, reasonable access and ingress to and egress from the other Units in the hallway affected by such alteration.
- C. The Common Elements shall be used only by the Unit Owners and their contractors, servants, tenants, family members, non-business invitees and guests for access, ingress to and egress from the respective Units and for other purposes incidental to use of the Units; provided, however, other areas designated for specific use shall be used for the purposes approved by the Board.
- D. The use, maintenance and operations of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and may be subject to lease, concession or easement, presently in existence or entered into by the Board at some future time.
- E. Without limiting the generality of the foregoing provisions of this Section 2.9, use of the Property by the Unit Owners shall be subject to the following restrictions:
- (1) Nothing shall be stored in the Common Elements without prior consent of the Board, except in storage areas or as otherwise herein expressly provided;

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- (2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or the Common Elements which will result in the cancellation of insurance on any Unit, or any part of the Common Elements, or which will be in violation of any law;
- (3) No waste shall be committed in or on the Common Elements;
- (4) Subject to the Declarant's rights under Section 2.9E.(14)(d) and Article IX of this Declaration, no sign of any kind shall be displayed to the public view on or from any Unit or Common Elements without the prior written consent of the Board or the written consent of the managing agent, if any, of the Association acting in accord with the Board's direction;
- (5) No noxious or offensive activity shall be carried on, in or upon the Common Elements, nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any other Unit Owner. No loud noises or noxious odors shall be permitted on the Property, and the Board shall have the right to determine in accordance with the Bylaws if any such noise, odor or activity constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably interfere with television or radio reception of any Unit Owner in the Property, shall be located, used or placed on any portion of the Property or exposed to the view of the other Unit Owners without the prior written approval of the Board;
- (6) Except as expressly provided hereinabove, nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Board;
- (7) No structure of a temporary character, trailer, tent, shack, or other outbuildings shall be permitted on the Property at any time temporarily or permanently, except with the prior written consent of the Board;

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provided, however, that temporary structures may be erected for use in PG. connection with the (i) renovation of Units by the Declarant; (ii) the repair or rebuilding of the Buildings or any portion thereof; or (iii) as provided in Section 2.9E.(14) and/or Article IX hereof. No portion of any garage may be converted into a living area.

- (8) No rubbish, trash or garbage or other waste material shall be kept or permitted upon any Unit or the Common Elements, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or to its Occupants. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles designed in such a manner that no fire hazard is created. No clothing or household fabrics shall be hung, dried or aired in such a way in the Property as to be visible to other Property and no lumber, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property, except within an enclosed structure or if appropriately screened from view;
- (9) No Unit Owner shall park, store, or keep any vehicle, except wholly within such Unit Owner's respective garage. No inoperable vehicle shall be stored or parked in a parking space or within the Common Elements in general. No Unit Owner shall park, store or keep within or adjoining the Property (a) any large commercial-type vehicle (dump truck, cement-mixer truck, oil or gas truck, delivery truck and any other vehicle equipment, mobile or otherwise, deemed to be a nuisance by the Board); or, (b) any recreational vehicle (camper unit, motor home, trailer, boat, mobile home or other similar vehicle deemed to be a nuisance by the Board). No Unit Owner shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Common Elements. Notwithstanding the foregoing, the twenty (20) parking spaces are expressly designated for visitors and are not to be used by Unit Owners, tenants of Units or the occupants of a Unit. Parking spaces shall be used strictly for visitor parking purposes only; provided, however, the Board of Directors of the Association may from time to time grant variances upon such terms and conditions as the Board of Directors may reasonably require. No parking shall be permitted on a Unit Owner's driveway

entry to the Unit's garage except for the limited purposes of either loading or unloading the vehicle. Unit Owner's vehicles and those of their tenants and household members are to be parked at all times within the garage with the garage doors kept closed except for the limited purpose of exiting and entering the garage.

- (10) Except within individual Units or the portion of the Limited Commons Elements designated as a yard, patio or entryway, no planting, transplanting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Property, except as approved by the Board;
- (11) Motorcycles, motorbikes, motor scooters or other similar vehicles or any unlicensed, motorized means of transportation shall not be operated within the Property except for the purpose of transportation directly from a Unit's garage to a point outside the Property, or from a point outside the Property directly to a Unit's garage;
- (12) No animals, livestock, reptiles, or poultry of any kind shall be raised, bred or kept in any Unit or the Common Elements. Dogs, cats, fish, birds and other household pets may be kept in Units subject to Rules and Regulations adopted by the Association, provided they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, the Association may determine a reasonable number in any instance to be more but not less. The Association, acting through the Board, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Unit Owner. Animals belonging to Unit Owners, Occupants or their licensees, tenants or invitees within the Property must be kept either within an enclosure, an enclosed patio or on a leash being held by a person capable of controlling the animal. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Board. Should any animal belonging to a Unit Owner be found unattended out of the enclosure and not being held on a leash by a person capable of controlling the animal, such animal may be removed by Declarant (for so long as it has control over the Association) or a person designated by Declarant to do so, and subsequent thereto by the Association or its Managing Agent, to a

pound under the jurisdiction of the local municipality in which the Property is situated and subject to the laws and rules governing said pound, or to a comparable animal shelter. Furthermore, any Unit Owner shall be absolutely liable to each and all remaining Unit Owners of the same Unit, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Property by a Unit Owner or members of his family, his tenants or his guests; and it shall be the absolute duty and responsibility of each such Unit Owner to clean up after such animals which have used any portion of the Common Elements;

(13) The leasing of Units will be subject to the following conditions, terms and restrictions:

(a) The leasing of Units is subject to the following conditions: (1) no Unit may be subdivided for rent purposes, and no less than an entire Unit may be leased; (2) no Unit may be leased to more than three (3) unrelated people; (3) no Unit may have more than six (6) total occupants; (4) all leases must be in writing and must be made subject to the Declaration and the Rules and Regulations; (5) the Owner must provide a copy of each lease to the Association within ten (10) days after execution; (6) on request of the Association from time to time, the Owner must provide the Association with his tenant's name, phone numbers, and vehicle information; (7) the Owner is responsible for providing his or her tenant with copies of the Declaration and the Rules and Regulations and notifying him of changes thereto; (8) each tenant is subject to, and must comply with, all provisions of the Declaration and the Rules and Regulations, federal and State laws, and local ordinances; and (9) the Owner automatically relinquishes and delegates to his or her tenant the Owner's right of enjoyment to the Common Elements.

(b) Every lease agreement on a Unit, whether written or oral, express or implied, is subject to and is deemed to include the following provisions:

(i) Failure by the tenant or his or her invitees to comply with the Rules and Regulations adopted by the

Association, the Declaration, federal or State law, or local ordinance is deemed to be a default under the lease. Upon notification from the Association to an Owner of the tenant's violation, the Owner will promptly obtain the tenant's compliance or exercise the Owner's rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain the tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or State law for the default, including eviction of the tenant, subject to the terms of this Section.

- (ii) Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Rules and Regulations or Declaration by the Association, each Owner appoints the Association as the Owner's attorney-in-fact, with full authority to act in the Owner's place in all respects, solely for the purpose of enforcing the Condominium Documents against the tenants, including but not limited to the authority to institute forcible detainer proceedings against the tenant on the Owner's behalf, provided the Association gives the Owner at least ten (10) days' notice, by certified mail, of its intent to so enforce the Documents.
- (iii) The Owner of a leased Unit is liable to the Association for any expenses incurred by the Association in connection with enforcement against any tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Documents against the Owner's tenant.
- (c) During the Declarant Control Period, Declarant is exempt from the effect of this Section 2.9.
- (d) Every Owner hereby grants to the Association a continuing assignment of rents to secure the payment of Assessments to the Association. If a Unit's account becomes delinquent

during a period in which the Unit is leased, the Association may direct the tenant to deliver rent to the Association for application to the delinquent account, provided the Association gives the Owner notice of the delinquency, a reasonable opportunity to cure the debt, and notice of the Owner's right to a hearing before the Board. The Association must account for all monies received from a tenant and must remit to the Owner any rents received in excess of the past-due amount. A tenant's delivery of rent to the Association under the authority hereby granted is not a breach of the tenant's lease with the Owner and does not subject the tenant to penalties from the Owner.

- (14) In order that Declarant may establish the Property as a fully occupied Condominium, neither Unit Owner nor the Association shall do anything to interfere with, and nothing in the Declaration shall be understood or construed to:
- (a) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing in any Unit owned by them whatever they determine to be necessary or advisable in connection with the completion of any work thereon including any renovation to the Condominium Units;
 - (b) Prevent Declarant, its successors or assigns, or its or their representatives, from erecting, constructing and maintaining on the Common Elements or any Condominium Unit owned or controlled by Declarant, its successors or assigns, or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing any work and establishing the Property as a Condominium Unit and disposing of the same by sale, lease or otherwise;
 - (c) Prevent Declarant, its successors or assigns, or its or their representatives, from maintaining a sales office and maintaining and showing one or more model units to aid in the marketing of the Units.

- (d) Prevent Declarant, its successors or assigns, or its or their contractor or subcontractors, from maintaining a sign or signs for marketing of Units in the Property.
 - (e) Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant to maintain, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the sale of said Condominium Units. This shall include, but shall not be limited to, a business office, storage area, model units, sales office, and the placement of any signs deemed necessary for the display of Condominium Unit sales. The right to maintain the foregoing shall terminate sixty (60) days after the sale of the last Unit owned by Declarant or Declarant's successor-in-interest.
- (15) No Owner of a Unit will be permitted to change exterior doors, exterior windows, and garage doors or otherwise change the color of such exterior doors, exterior windows or exterior garage doors without the approval of the Board.
 - (16) No garage sales shall be conducted from a Unit or a garage of a Unit. Notwithstanding the foregoing, the Board of Directors of the Association shall have the right, but not an obligation, to authorize a maximum of one (1) community wide garage sale per year for the entire Condominium Project lasting no more than two (2) days and upon such terms and conditions established by the Board of Directors.

2.10 RESERVATION OF VARIANCE.

Notwithstanding any provision of this Declaration to the contrary, the Declarant reserves unto itself the exclusive right to amend the Condominium Plat and to vary the size, shape, physical lay-out or location of the unsold Units and to correspondingly adjust the sales price and the percentage or fraction of ownership of the Common Elements or the respective Units remaining unsold. Such adjustment in the percentage or fraction of ownership of the Common Elements will only affect those Units owned by the Declarant, and will not change or affect the percentage or fraction of ownership of any other Units.

2.11 UNITS.

- A. Designation and Measurement of Units. In determining dimensions and areas assigned to each Unit for purposes of establishing boundaries of each Unit, each enclosed space in a Unit is measured from: (i) the middle of interior party walls, (ii) the outside surfaces of exterior bearing walls (including all glass and glass substitutes), (iii) the interior surface of all other walls (including the garage), (iv) the interior surfaces of finished, unpainted floors and attics, but (v) excluding all Limited Common Elements appurtenant to such Unit.
- B. Description of Units. Each Unit shall consist of the following portions of the Building: (i) the interior surface of each Unit's perimeter walls (including garage doors and perimeter walls of garage); (ii) the interior surface of the ceiling; (iii) the upper surface of the concrete floor of each Unit; (iv) all lath, furring, wallboard, plasterboard, plaster, paneling tiles, wallpaper, paint, finished flooring, and other materials constituting part of the interior surfaces of (i) through (iii) above; (v) the air space enclosed within the area described in (i) through (iv) above; (vi) any and all walls, ceilings, floors, partitions, dividers, fixtures and improvements wholly within such air space (but excluding any pipes, ducts, wires, cables, conduits, bearing beams or supports contained with such walls, ceilings, floors, partitions and dividers); and (vii) all plumbing, heating, ventilating, air conditioning, lighting, cooking, and other fixtures and equipment (exclusive of pipes, ducts, wires, cables or conduits) located wholly or partly within such air space.
- C. Boundaries of Units. In interpreting deeds, mortgages, deeds of trust and other instruments for any purpose whatsoever or in connection with any matter, the existing physical boundaries of the Units or of any Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be the boundaries, regardless of settling, rising, or lateral movement, of the Buildings and regardless of variances between the boundaries shown on the Condominium Map and those of the Building.

ARTICLE III

RIGHTS AND OBLIGATIONS OF OWNERSHIP

3.1 OWNERSHIP.

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A Condominium Unit will be a fee simple estate and may be held ^{PG.} and owned by any person, firm, corporation or other entity singularly, as joint tenants, as tenants-in-common, or in any real property tenancy relationship recognized under the laws of the State of Texas.

3.2 PARTITION.

The Common Elements (both General and Limited) shall be owned in common by all of the Owners of the Condominium Units and shall remain undivided, and no Owner shall bring any action for partition or division of the Common Elements. Nothing contained herein shall be construed as limitation of the right of partition of a Condominium Unit between the Owners thereof, but such partition shall not affect any other Condominium Unit.

3.3 EXCLUSIVENESS OF OWNERSHIP.

Each Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner may use the Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. Each Owner shall have an unrestricted right of ingress and egress to his or her Unit. Such right is perpetual and shall be a covenant running with each Unit.

3.4 RESIDENTIAL DWELLING AND OCCUPANCY.

Each Condominium Unit shall be occupied and used by the Owner and/or leased by the Owner only as and for a residential dwelling for the Owner, his family, his social guests or his tenants and for no other purpose.

3.5 MECHANIC'S AND MATERIALMAN'S LIENS.

No labor performed or materials furnished and incorporated in a Unit, notwithstanding the consent or request of the Owner, his agent, contractor or subcontractor, shall be the basis for filing of a lien against the Common Elements owned by such other Owners. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit as such Owner's request.

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3.6 RIGHT OF ENTRY.

The Association shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any time for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units.

3.7 MAINTENANCE RESPONSIBILITIES.

A. Owner's Responsibilities.

- (i) Each Owner shall bear the cost of maintenance, repair and replacement of the following items within such Owner's Unit and such Owner's Limited Common Elements: interior surfaces of all perimeter and interior walls, attics, ceilings and floors (including carpeting, tile, wall paper, paint, attic insulation or other covering); air handlers, HVAC systems, pipes, ducts, wiring and conduits located entirely within a Unit or serving only such Unit; garbage disposals, ranges, refrigerators, dishwashers and any and all other appliances of any nature whatsoever; interior and exterior doors; interior and exterior garage doors, interior and exterior glass surfaces, window panes, mullions and light bulbs; plumbing and other fixtures of any nature whatsoever; "built-in" features; any decorative features; and, any furniture and furnishings. All of the exteriors of the doors (including garage doors) and all glass in windows, doors and garage doors will remain in conformity with the original installation and in first class condition and appearance. Should an Owner of a Unit fail to maintain or repair its Unit or any portion of the Limited Common Elements appurtenant to such Unit, including the maintenance of the garage door in a first class condition and appearance, the Board may effectuate same and assess the Owner for the cost thereof.
- (ii) Within thirty (30) days after the date of acquiring an interest in a Unit, the Owner shall provide the Association with: (i) the Owner's mailing address, telephone number and driver's license number; (ii) the name and address of the holder of any lien against the Unit and any loan number; (iii) the name and telephone number of any person occupying the Unit other than the Owner or Owners; and (iv) the name, address

and telephone number of any person managing the Unit as agent for the Owner. An Owner shall notify the Association within thirty (30) days after the Owner has notice of a change of any of the information set forth in (i) through (iv) above, and shall provide that information on request by the Association from time to time.

- B. General Common Elements. The cost and expense for the upkeep and maintenance of the General Common Elements shall be undertaken by the Association, shall be a Common Expense of the Owners, and shall be included in the Assessments for the usual and ordinary costs and expenses for the maintenance, repair, upkeep and operation of the Common Elements, and each Owner of a Unit shall pay his or her pro-rata share thereof. The Association shall be responsible for maintaining the General Common Elements.
- C. Roofs. The Association shall be responsible for roof maintenance and roof and decking replacement and roof support.
- D. Utilities. Each Owner shall bear the cost of telephone installation and service, cable television, water, electricity, gas and any other utility service for his or her Unit which is or may be individually metered and billed directly by the utility company furnishing such service to such Owner. The cost of any other utility expense (except to the extent such costs are borne by each Owner as set forth in the preceding sentence) shall be a Common Expense. With the exception of common ownership with other Owners, no Owner shall be deemed to own the utilities which run through his or her Unit and serve one or more other Units.
- E. Limited Common Elements. The cost and expense for the upkeep and maintenance of the Limited Common Elements shall be undertaken by the Unit Owner to which the Limited Common Element is reserved.

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3.8 ALTERATION.

An Owner shall do neither act nor any work that will impair the structural soundness and integrity of the Buildings or impair any easement or hereditament. No Owner of a Unit shall in any way alter, modify, add to or otherwise perform any work whatever upon any of the Common Elements, Limited or General, without the prior written consent and approval in writing by the Board of Directors.

3.9 RESTRICTION OF OWNERSHIP.

As a restriction of the ownership provisions set forth in Section 1.1BB., "Unit", an Owner shall not be deemed to own the unfinished surfaces of the perimeter walls, floors, roof decking, roof support and roofs surrounding his Unit, nor shall such Owner be deemed to own the utilities running through his Unit which are utilized for, or service, more than one (1) Unit, except as a tenant-in-common with the other Owners. An Owner shall be deemed to own and shall maintain the inner, finished surfaces of the perimeter and interior walls, floors, ceilings, doors, windows and other such elements consisting of paint, wallpaper and other such finishing material.

3.10 LIABILITY FOR NEGLIGENT ACTS.

In the event the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests or invitees, and is not covered or paid for by insurance either on such Unit or the Common Elements, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Unit is subject, pursuant to Article IV hereof. Such liability will not exceed damages for which a Unit owner may be held liable under Texas law.

3.11 SUBJECT TO DECLARATION AND BYLAWS.

Each Owner of a Unit shall comply strictly with the provisions of this Declaration, the Bylaws and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunction relief, or both, maintainable by the Association on behalf of the Owners or, in proper case, by an aggrieved Owner.

3.12 LICENSES AND PERMITS.

The Association may grant permits, licenses, and easements to appropriate parties over the Common Elements for utilities, roads and other purposes necessary for the operation of the Project.

3.13 ACCESS TO UNITS.

Each Owner shall have an unrestricted right of ingress and egress to such Owner's Unit. This right is perpetual and shall pass to any purchaser of the Unit and any transfer made without an assignment of such rights to a purchaser shall be null and void.

3.14 WARRANTY CLAIMS.

If the Owner is the beneficiary of a warranty against major structural defects of the Common Elements, the Owner irrevocably appoints the Association, acting through its Board, as his attorney-in-fact to file, negotiate, receive, administer, and distribute the proceeds of any claims against the warranty that pertains to Common Elements.

3.15 OWNER'S DEFAULT IN MAINTENANCE.

If the Board determines that an Owner has failed to properly discharge his obligations to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state with reasonable particularity the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which shall constitute an Assessment against the Owner and the Owner's Unit. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

3.16 SATELLITE DISH/ANTENNA.

A satellite dish or antenna is subject to this Section.

- A. Definitions. As used in this Section "Antenna/Dish Unit" means the Unit served by a satellite dish or antenna, or the Unit that is obviously intended to be served by a satellite dish or antenna, regardless of whether the service is operational. "Antenna/Dish Owner" means the Owner of a Unit served by a satellite dish or antenna, regardless of whether the Unit Owner purchases, uses, or has actual knowledge of the satellite dish or antenna.
- B. Owner Responsibility. The installation of an Antenna/Dish on Common Elements automatically subjects the Antenna/Dish Unit and its Owner to this Section, regardless of who installs the Antenna/Dish and regardless of whether the Antenna/Dish Owner has actual notice of the installation. The Antenna/Dish Owner is solely responsible for (1) the cost of maintaining, repairing, replacing, and removing, as necessary, the Antenna/Dish, and (2) the cost of repairing Common Elements if such repairs are necessitated by the Antenna/Dish or its installation, maintenance, repair, or replacement, irrespective of whether the repairs are undertaken by the Antenna/Dish Owner or the Association. If required by the Association, the Antenna/Dish Owner will remove the Antenna/Dish as necessary, to permit the Association to maintain, repair, or replace Common Elements as the Association, in its sole discretion, deems necessary or desirable.
- C. Association Controls. To the extent permitted by public law, the Association may adopt and amend reasonable standards for the color, appearance, location, method of installation, maintenance, camouflaging, screening, and use of Antenna/Dishes. The location and installation of an Antenna/Dish on the Common Elements must have the prior written approval of the Association, unless the location and installation comply with the most current standards that have been adopted and published by the Association.
- D. Interference. An Antenna/Dish or the use of an Antenna/Dish may not interfere with satellite or broadcast reception to other Units or the Common Elements, or otherwise be a nuisance to residents of other Units or to the Association. The Board may determine what constitutes a nuisance to the Association.
- E. Risk. An Antenna/Dish on the Common Elements exists at the sole risk of the Antenna/Dish Owner and/or occupant of the Antenna/Dish Unit. The Association does not insure the Antenna/Dish and is not liable to the Antenna/Dish Owner or any other person for any loss or damage to the Antenna/Dish from any cause. The Antenna/Dish Owner indemnifies the Association, its directors and members, individually and collectively, against

losses due to any and all claims for damages or lawsuits, by anyone, arising from his Antenna/Dish.

ARTICLE IV

MANAGEMENT AND ADMINISTRATION

4.1 BYLAWS.

The administration of this Condominium Property shall be governed by the Bylaws of HERON'S NEST AT HARBOR LAKES HOMEOWNERS ASSOCIATION, INC., a non-profit corporation, referred to herein as the "Association". An Owner of a Condominium Unit, upon becoming an Owner, shall be a Member of the Association and shall remain a Member for a period of his ownership. The Association shall be managed by a Board of Directors, duly appointed or elected, pursuant to the terms and conditions of the Bylaws. In addition, the Association shall enter into a management agreement upon the terms and conditions established in the Bylaws, and said management agreement shall be consistent with this Declaration.

4.2 DECLARANT CONTROL.

Section 4.1 notwithstanding, and for the benefit and protection of the Unit Owners and any First Mortgagees of Record and for the sole purpose of insuring a complete and timely sellout of the Condominium Project, the Declarant will retain control of and over the Association until the expiration of the Sale Period.

4.3 TEMPORARY MANAGING AGENT.

During the period of administration of this Condominium Regime by Declarant, the Declarant may employ or designate a temporary manager or managing agent, who shall have and possess all of the rights, powers, authority, functions and duties as may be specified in the contract of employment or as may be delegated by Declarant to him. The Declarant may pay such temporary manager or managing agent such compensation as it may deem reasonable for the services to be rendered, which compensation shall constitute a part of the Common Expenses of this Condominium Regime and shall be paid out of the Association budget.

4.4 SPECIFIC POWER TO RESTRICT USE AND ENJOYMENT.

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Every Owner and the Declarant shall have a beneficial interest of use and enjoyment in the Common Elements subject to the following limitations, restrictions and provisions:

- A. The right of the Association to borrow money and mortgage the General Common Elements and improvements for the purpose of improving the General Common Elements and facilities and in aid thereof to mortgage said property; provided, however, that the rights of any such Mortgagee in such property shall be subordinate to the rights of the Owners hereunder and to any existing mortgage, and in no event shall any such Mortgagee have the right to terminate the Condominium Regime established by this Declaration;
- B. The right of Declarant during Declarant Control Period, or the Association after Declarant Control Period, to dedicate or transfer all or any part of the General Common Elements to any public agency, authority or utility for the purposes, and subject to the conditions, of such agency, authority or utility. No such dedication or transfer after Declarant Control Period shall be effective unless approved by all First Mortgagees and two-thirds (2/3) vote of the quorum of Owners present at a meeting of the Association specifically called for the purpose of approving any such dedication or transfer, and unless an instrument signed by the Board of Directors reflecting such vote of the Owners agreeing to such dedication or transfer and First Mortgagee approval has been duly recorded in the Public Records of Hood County, Texas;
- C. The right of the Association to adopt, implement and maintain a private security system for the Premises consistent with applicable laws;
- D. The right of the Association to establish Rules and Regulations governing traffic within the General Common Elements, and to establish sanctions for any violation or violations of such Rules and Regulations;
- E. The right of the Association to regulate noise within the Premises, including, without limitation, the right of the Association to require mufflers on engines and to prohibit the use of devices producing excessive noise; and
- F. The right of the Association to control the visual attractiveness of the Property, including, without limitation, the right to require Owners to

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eliminate objects which are visible from the General Common Elements and which, in the Association's judgment, detract from the visual attractiveness of the Property.

- G. The right of the Association to require Unit Owners to cause the Units and their respective Limited Common Elements to be maintained in a first class manner and in first class and uniform appearance and visual attractiveness, including, without limitation, the right to require Owners to paint, maintain Limited Common Elements, garage doors, windows, front doors and other objects which are visible from the General Common Elements and which, in the Association's judgment, detract from the visual attractiveness of the Property or which are not otherwise uniform in appearance and condition.

4.5 ADMINISTRATION BY ASSOCIATION/MANAGING AGENT.

The affairs of the Condominium Project shall be administered by the Association. Unless otherwise expressly stated in this Declaration or the Bylaws, the Association may:

- (i) adopt and amend the Bylaws;
- (ii) adopt and amend budgets for revenues, expenditures, and reserves, and collect Assessments from Owners;
- (iii) hire and terminate Managing Agents and other employees, agents, and independent contractors;
- (iv) institute, defend, intervene in, settle, or compromise litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Condominium Project;
- (v) make contracts and incur liabilities relating to the operation of the Condominium Project;
- (vi) regulate the use, maintenance, repair, replacement, modification, and appearance of the Condominium Project;
- (vii) adopt and amend rules regulating the use, occupancy, leasing or sale, maintenance, repair, modification, and appearance of Units and

Common Elements, to the extent the regulated actions affect
Common Elements or other Units;

- (viii) cause additional improvements to be made as a part of the Common Elements;
- (ix) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, except Common Elements;
- (x) grant easements, leases, licenses, and concessions through or over the Common Elements;
- (xi) impose and receive payments, fees, or charges for the use, rental, or operation of the Common Elements and for services provided to Owners;
- (xii) impose interest and late charges for late payments of Assessments, returned check charges, and, if notice and an opportunity to be heard are given, reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations;
- (xiii) adopt and amend rules regulating the collection of delinquent Assessments and the application of payments;
- (xiv) adopt and amend rules regulating the termination of utility service to a Unit, the Owner of which is delinquent in the payment of an Assessment that is used, in whole or in part, to pay the cost of that utility;
- (xv) impose reasonable charges for preparing, recording, or copying declaration documents, resale certificates, or statements of unpaid Assessments;
- (xvi) enter a Unit for bona fide emergency purposes without notice to the Owner if the Owner is unavailable when conditions present an imminent risk of harm or damage to the Common Elements, another Unit, or the occupants;

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- (xvii) assign its right to future income, including the right to receive Regular Assessments, but only to the extent this Declaration so provides; VOL. 0663 PG.
- (xviii) suspend the voting privileges of or the use of certain Common Elements by an Owner delinquent for more than thirty (30) days in the payment of Assessments;
- (xix) purchase insurance and fidelity bonds it considers appropriate or necessary;
- (xx) exercise any other powers conferred by this Declaration or Bylaws;
- (xxi) exercise any other powers that may be exercised in the State of Texas by a corporation of the same type as the Association; and
- (xxii) exercise any other powers necessary and proper for the government and operation of the Association.

Any of the duties, powers and functions of the Board may be delegated by the Board to the Managing Agent.

4.6 MEMBERSHIP, VOTING, QUORUM, PROXIES.

- A. Membership. Any person on becoming an Owner of a Condominium Unit shall automatically become a Member of the Association. Such membership shall terminate without any formal Association action whenever such person ceases to own a Condominium Unit, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with HERON'S NEST LUXURY RESIDENCES AT HARBOR LAKES during the period of such ownership and membership in the Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Board of Directors may, if it so elects, issue one (1) membership card to the Owner(s) of a Condominium Unit. Such membership card shall be surrendered to the Secretary whenever ownership of the Condominium Unit designated thereon shall terminate.

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- B. Voting. Unit ownership shall entitle the Owner(s) to vote in the affairs of the Association. Each Unit will be entitle to one vote which vote will be weighted on the basis of the specific Unit Owner's Ownership Percentage set forth on Exhibit "C". The Ownership Percentage shall be modified and amended to the extent that additional Units are added to this Declaration. Voting shall not be split among more than one (1) Unit Owner. Notwithstanding the foregoing, and for the benefit and protection of the Owners and any Mortgagee and for the sole purpose of insuring a complete and orderly sell-out of the Units, the Declarant, regardless of whether it owns more than fifty (50%) percent of the Units, shall retain control of, and over, the Association and the Board until the expiration of the Declarant Control Period as provided in Article IX.

4.7 INSURANCE.

- A. Owner's Insurance. Each Owner of a Unit (collectively for the purposes of this Section 4.7 only referred to as the "Insureds") shall be responsible, at his or her cost and expense, for his or her own personal, fire and extended casualty insurance covering everything within the Unit Boundaries of his or her Unit as well as on the contents of his or her Unit (specifically including glass and windows appurtenant to the Unit) and his or her additions and improvements thereto, and his or her decorations and furnishings and personal property therein, as well as his or her personal liability to the extent not covered by the liability insurance for all of the Owners which may be obtained by the Association as a Common Expense.
- B. Association's Insurance. The Association shall obtain and continuously keep in effect, to the extent reasonably available, a Master Policy of fire and extended coverage, vandalism, malicious mischief and liability insurance, and, if required by law, workers' compensation insurance, with respect to the Condominium Project and the Association's administration thereof in accordance with the following provisions:
- (i) Parties Covered. The Master Policy shall be purchased by the Association as a Common Expense for the benefit of the Association, Managing Agent (if any), and each and every Insured and their respective Mortgagees, as their interests may appear (subject to the provisions of the Condominium Documents and the

Act), and provision shall be made for the issuance of appropriate mortgage endorsements to Mortgagees. PG. 0665
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(ii) Coverage.

(a) The Buildings and all improvements, personal property owned by the Association (but excluding Insureds) and other Common Elements shall be insured against fire, vandalism and malicious mischief, and other perils covered by a standard extended coverage endorsement (with appropriate endorsement to cover fixtures, equipment, installations, additions or other property comprising a part of the Buildings within the interior surfaces of the perimeter walls, floors and roof decking (ceiling of attics) of individual Units initially installed, or replacements thereof), in an amount equal to the maximum insurable replacement value thereof (excluding the costs of the land, excavations, foundations, footings and other items normally excluded from coverage) as determined annually by the Association. The Association may obtain an appraisal in determining insurable value and the cost thereof shall be an expense of the Association. The Association may, in its sole discretion, elect to carry insurance to cover such other perils as from time to time shall be customarily covered with respect to buildings and improvements similar in construction, location and use.

(b) The Association shall also maintain comprehensive commercial general liability insurance, including medical payments insurance, in an amount determined by the Association (but in no event less than \$1,000,000.00) covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. The Association shall use its best efforts to see that the liability insurance carried by the Association shall cover the Common Elements and shall contain, if available, cross-liability endorsements or appropriate provisions for the benefit of Insureds, individually and as a group, Directors, and Managing Agent (if any) insuring each insured against liability to each other insured.

(c) If the property insurance and/or the liability insurance described above is not reasonably available, the Association shall

cause notice of that fact to be delivered or mailed to all Insureds and Mortgagees.

(d) The property and liability insurance policies obtained by the Association shall provide that: (i) each Insured is an insured person under the policy with respect to liability arising out of such Owner's Ownership Percentage in the Association; (ii) the insurer waives its right to subrogation under the policy against an Insured or the Association; (iii) no action or omission of an Insured, unless within the scope of the Insured's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; (iv) if, at the time of a loss under the policy, there is other insurance in the name of an Insured covering the same property covered by the policy, the Association's policy shall provide the primary insurance; and (v) the insurer issuing the policy may not cancel or refuse to renew the policy less than thirty (30) days after written notice of the proposed cancellation or non-renewal has been mailed to (i) the Association; and (ii) each Mortgagee listed in the policy.

(iii) Premiums. All premiums for insurance purchased by the Association shall be included in the Association's budget except that the amount of increase over such premiums occasioned by the use, misuse, occupancy or abandonment of a Unit or the Common Elements by an Insured shall be assessed only against such Insured .

(iv) Proceeds of Insurance. Proceeds of all insurance policies owned by the Association shall be payable to the Association in trust for the Insureds and the Mortgagees as their interests appear, shall be deposited by the Association in a federally insured bank approved by the Association and a majority in number (based upon one (1) vote for each mortgage or deed of trust owned) of the Mortgagees, shall be held in a separate account and shall be distributed to the Association, Insureds and their Mortgagees (subject to the provisions of the Condominium Documents and the Act) as their interests may appear; provided, however, whenever repair or reconstruction of the Condominium Project shall be required as provided in this Declaration hereof, the proceeds of any insurance received by the Association as a result of any loss requiring repair or reconstruction under this Declaration shall be administered by the Association and

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shall be applied to such repair or reconstruction. Failure of any Mortgagee to respond within ten (10) days following written request by the Association for the approval of a federally insured bank as a depository shall be deemed approval of such federally insured bank.

(v) Appointment of Attorney-In-Fact. Each Insured, by acceptance of a deed or other instrument of conveyance from Declarant or from any Insured or grantor resulting in ownership of a Unit within the Project, shall be deemed to appoint the Association as his true and lawful attorney-in-fact (which shall be deemed to be an irrevocable power of attorney coupled with an interest and not voidable due to the incapacity or disability of an Insured) to act in connection with all matters concerning the maintenance of the Master Policy and the destruction, repair or obsolescence of the Condominium Project, in whole or in part. Without limiting the generality of the foregoing, the Association, by and through its President or Vice President, shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds, to institute and prosecute litigation or arbitration, to pay all costs associated with its activities as Common Expenses (to the extent the proceeds received from such insurance are not adequate to pay such costs), to administer the distribution of such proceeds in connection with any reconstruction or repair, to distribute any remaining proceeds to Insureds and their Mortgagees (subject to the provisions of the Condominium Documents and the Act) as their interests may appear, to execute releases of liability, and to execute all documents and to do all things on behalf of the Insureds and the Condominium Project as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters (other than exercising any voting rights in determining whether to repair or reconstruct). The Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any Unit or covering the liability of any Insured for occurrences not caused by or connected with the Association's operation, maintenance or use of the Condominium Project.

(vi) Priority As To Proceeds. Notwithstanding anything contained herein to the contrary, no provision contained herein, in the Condominium Documents, or in the Rules and Regulations shall give an Insured or

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any other party priority over any Mortgagee with respect to the distribution of proceeds of insurance to which such Insured or other party would not otherwise be entitled.

- (vii) Waiver of Subrogation. The Association and the Insureds shall use their best efforts to see that all insurance carried by an Insured or the Association shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against Insureds or the Association and the respective tenants, servants, agents, and guests of Insureds or the Association, as the case may be, and the Association and the Insureds, by their acceptance or recordation of a Deed, hereby waive any and all claims and rights of subrogation against each other to the extent of any damage or injury for which insurance is required to be maintained under this Declaration.
- (viii) Certificates of insurance evidencing such insurance shall be issued to any Insured and Mortgagee upon written request.

4.8 PHYSICAL RESTRICTIONS.

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Unit, or the patio of any Unit, after the purchase of any Unit from Declarant, its successors or assigns, nor shall any exterior addition to or change or alteration therein be made without the express written waiver or consent of the Association.

4.9. RESALE CERTIFICATE.

In connection with the proposed sale of any Unit, the Association shall furnish to the selling Owner or the Owner's agent, within ten (10) days after the date of receiving a written request from the Owner, a resale certificate containing the following information: (i) the current operating budget of the Association; (ii) any right of first refusal or other restraint contained in the Declaration that restricts the right to transfer a Unit (there being no such right in this Declaration); (iii) the amount of the periodic Regular Assessments and the unpaid Regular Assessments or Special Assessments currently due and payable by the selling Owner; (iv) other unpaid fees or amounts payable to the Association by the selling Owner; (v) capital expenditures, if any, approved by the Association for the next twelve (12) months; (vi) the amount of reserves, if any, for capital expenditures and of portions of those reserves designated by the Association for a specified project; (vii) any unsatisfied

judgments against the Association; (viii) the nature of any pending suits against the Association; (ix) whether the Board of Directors has knowledge that any alterations or improvements to the Unit or the Limited Common Elements assigned to that Unit violate the Declaration, the Bylaws or the Rules and Regulations; (xi) whether the Board of Directors has received notice from a governmental authority concerning violations of health or building codes with respect to the Unit, the Limited Common Elements assigned to that Unit or any other portion of the Condominium Project; (xii) the remaining terms of any leasehold estate that affects the Condominium Project and the provisions governing an extension or renewal of the lease; and (xiii) the name, mailing address, and telephone number of the Managing Agent, if any. The Association shall not be liable to a selling Owner or such Owner's prospective purchaser for delay or failure to furnish a resale certificate, and an officer or agent of the Association is not liable for a delay or failure to furnish a resale certificate unless the officer or agent willfully refuses to furnish the resale certificate or is grossly negligent in not furnishing the resale certificate. In the event that a properly executed resale certificate incorrectly states the total of delinquent sums owed by the selling Owner to the Association, the purchaser shall not be liable for payment of additional delinquencies that are unpaid on the date the resale certificate is prepared and that exceed the total sum stated in the resale certificate; provided, however, in no event shall a resale certificate affect: (i) the Association's right to recover debts or claims that arise or become due after the date the certificate is prepared; or (ii) the Association's lien on a Unit securing payment of future Assessments.

4.10 MANAGEMENT CERTIFICATE.

The Association shall record in the Office of the County Clerk of Hood County, Texas, a certificate, signed and acknowledged by an officer of the Association, stating: (i) the name of the Condominium Project, (ii) the name of the Association, (iii) the location of the Condominium Project, (iv) the recording date of this Declaration, and (v) the mailing address of the Association, or the name and mailing address of the managing agent. The Association shall record an updated management certificate within thirty (30) days after the date the Association has notice of a change in any of the information set forth in (i) through (v) above as set forth in the recorded management certificate.

ARTICLE V**MAINTENANCE ASSESSMENTS****5.1 ASSESSMENTS FOR COMMON EXPENSES.**

All Owners (other than the Declarant during Declarant's Control Period) (hereinafter collectively referred to as the "Assessed Party or Parties" for purposes of this Section 5.1 only) shall be obligated to pay the Regular and Special Assessments imposed by the Association to meet the Common Expenses. Regular Assessments for the estimated Common Expenses shall be due monthly in advance on or before the first (1st) day of each month. Failure to pay by the fifteenth (15th) day of each month shall require the imposition and assessment of a late charge in an amount established by the Association from time to time. Such Regular Assessments shall be prorated if the ownership of a Condominium Unit commences on a day other than the first (1st) day of a month.

5.2 PURPOSE OF ASSESSMENTS.

The Regular Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, welfare and recreation of the residents in the Property, and in particular for the improvement, maintenance and preservation of the Property, the services and the facilities devoted to said purposes that are related to the use and enjoyment of both the Common Elements and the Units situated upon the Property. Such uses may include, but are not limited to, the cost to the Association of the following: all insurance; repair, replacement and maintenance of the Common Elements; fire, extended coverage, vandalism, malicious mischief and liability insurance for the Condominium Units; management costs, taxes, legal and accounting fees as may from time to time be authorized by the Association; construction of other facilities; maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of the Property; caring for the roofs and exterior surfaces of the Building; maintaining the parking spaces; garbage pickup; pest control; outdoor lighting; security services for the Property including the television monitoring system; water and sewer service furnished to the Property by or through the Association; remote entry system for guests and invitees; discharge of any liens on the Common Elements; and other charges required by this Condominium Declaration, or other charges that the Association is authorized to incur. In addition, the Association shall establish an adequate reserve for repair, maintenance and other charges for the replacement to the Common Elements and those Limited Common Elements that it is obligated to maintain.

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5.3 DETERMINATION OF ASSESSMENTS.

The Regular Assessments shall be determined by the Board of Directors based upon the cash requirements necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements. This determination may include, among other items, taxes, governmental assessments, Common Elements lighting, repairs and renovation, garbage collections, wages, water charges, legal and accounting fees, management costs and fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, payment of any deficit remaining from a previous period and the creation of a reserve contingency fund. The omission or failure of the Board to fix the Assessment for any month shall not be deemed a waiver, modification or a release of the Assessed Party from the obligation to pay. The amount of such Regular Assessment shall be calculated in accordance with Section 5.4 hereof.

5.4 INITIAL REGULAR ASSESSMENT, CHANGES IN REGULAR ASSESSMENTS, RESERVE FUND AND TRANSFER FEE.

- A. Except as otherwise provided in Sections 5.4 D. ,5.4 E. and 5.5 below, the Regular Assessments shall be made according to each Assessed Party's Percentage Interest in and to the Common Elements provided in Exhibit "C" which is attached hereto, as same shall be adjusted based upon the addition of additional Units to this Declaration. Such Regular Assessments shall be paid monthly by each Assessed Party.
- B. As of the 1st of February of the year immediately following the conveyance of the first (1st) Condominium Unit to an Assessed Party other than the Declarant, the Association shall set the Regular Assessment for the next succeeding twelve (12) month period. In the event the Association fails to establish a Regular Assessment in any year, the Regular Assessments for the preceding year shall constitute the Regular Assessment for such year. The Association may change the amount of the Regular Assessment to an amount deemed necessary by the Association at any regular or special meeting of the Board of Directors.
- C. The Board of Directors shall have authority to lower the Regular Assessment, if it deems feasible.
- D. Notwithstanding anything to the contrary contained in Sections 5.4 A. above, until such time that Declarant completes Buildings III and IV and subjects the

ten (10) Units to be contained in Buildings III and IV to the terms and conditions of this Declaration, each Assessed Party will be pay its pro-rata of Common Expenses in accordance with the percentages set forth on Exhibit "D"; which percentage interest is Declarant's estimate of what such Assessed Parties Percentage Interest in the Common Elements will be upon Declarant's completion of the remaining un-built ten (10) Unit. PG.

- E. The initial Regular Assessments for the existing eight (8) Units currently subject to this Declaration are set forth on Exhibit "D".
- F. The Declarant shall collect from each Assessed Party an amount equal to two (2) months of estimated Regular Assessments per Unit. Such amount shall be collected from the Assessed Party (not the Declarant) at the closing each time a Unit is sold or transferred. Upon the expiration of the Declarant Control Period, such reserve and replacement fund shall be transferred by the Declarant to the Association; provided, however, the Declarant may not utilize the working capital reserve to (i) pay any of Declarant's expenses unrelated to the Project; (ii) pay costs incurred in the initial construction costs of the Project (but such reserve may be used for subsequent improvements to the Project); or (iii) pay Declarant's share of the Assessments during the Declarant Control Period. The Declarant may reimburse itself for funds it paid the Association in reserve funds with respect to any unsold Units upon the sale of such Units. In addition to the reserve and replacement fund collected by Declarant as set forth above upon the transfer or sale of a Unit the purchaser/transferee shall pay a transfer fee of \$500.00 which shall be used by the Declarant and thereafter the Association upon the termination of Declarants Control Period for Actual Operating Expenses for the normal maintenance and operation of the Condominium Project.

5.5 OBLIGATION OF DECLARANT FOR ASSESSMENTS AND MAINTENANCE.

Recognizing that, to some degree, the cost of administration and maintenance of the Condominium Project and the Common Elements is related to the use of the Common Elements which in turn is related to the number of Buildings which have been constructed, completed and Units sold by Declarant, Declarant shall be responsible during the Declarant Control Period only to pay, in lieu of any Regular Assessment or Special Assessment, an amount, if any, by which the Actual Operating Expenses (hereinafter defined) incurred during that period exceed the aggregate of Regular Assessments and Special Assessments payable by Assessed Parties and all other Owners of Units other than Declarant, provided, such amount

shall not exceed the amount the Declarant would be required to pay if it was treated as an Assessed Party based upon the Units owned by Declarant plus those Units not constructed, but required to be constructed by Declarant. For purposes of this Section 5.5, the term "Actual Operating Expenses" shall mean those expenses reasonably necessary for the normal maintenance and operation of the Condominium Project in order to provide the level and quality of services set forth in the budget initially prepared by Declarant and shall include capital expenditures, reserves, prepaid items, inventory items or similar expenses to the extent attributable to periods after such fiscal year, or any increase in the level and/or quality of services set forth in such initial budget prepared by Declarant. After the Declarant Control Period is terminated, Declarant shall pay the Regular Assessment for each Unit or Units it owns.

5.6 SPECIAL ASSESSMENTS FOR IMPROVEMENTS.

In addition to the Regular Assessments authorized above, at any time the Association may levy in any calendar year a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the General Common Elements, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment shall be approved by a two-thirds (2/3) vote of the quorum of Assessed Parties voting in person or by proxy at a meeting duly called for this purpose.

5.7 COMMENCEMENT OF ASSESSMENTS.

The Regular Assessments provided for herein shall be due on the first (1st) day of the month. The Regular Assessments shall be prorated if the ownership of a Unit commences on a day other than the first (1st) day of the month. On Units owned by the Declarant, the Regular Assessment shall commence on the first (1st) day of the month after the Declarant Control Period is terminated.

5.8 NO EXEMPTION.

No Assessed Party may exempt himself from liability for his contribution towards the Common Elements by waiver of the use or enjoyment of any of the General or Limited Common Elements.

5.9 RESERVES FOR ASSESSMENTS.

The Board may establish an annual budget in advance for each fiscal year and such budget shall project all Common Expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium Project, together with a reasonable allowance for contingencies and reserves. Such reserves shall be established and shall include, without limitation, an adequate reserve fund for the maintenance, repair and replacement of those Common Elements that must be replaced on a periodic basis, and shall be payable in regular installments fixed by the Board rather than by Special Assessments. Copies of the budget shall be delivered to each Assessed Party, although the failure to deliver a copy of the budget to each Assessed Party shall not affect the liability of any Assessed Party for any existing or future Assessments. Should the Board at any time determine, in the sole discretion of the Board, that the Assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium Project in any fiscal year (including a deficiency resulting from the nonpayment of Assessments by certain Assessed Parties) or in the event of a casualty loss, then the Board shall have the authority at any time and from time to time to levy an additional Assessment in an amount it shall deem to be necessary for that purpose.

5.10 LIEN FOR ASSESSMENTS.

- A. All Regular and Special Assessment assessed but unpaid by an Assessed Party for its share of Common Expenses chargeable to its Unit, including interest thereon at ten percent (10%) per annum, shall constitute a lien on such Unit superior (prior) to all other liens and encumbrances, except only for:
- (1) All taxes and Special Assessments levied by governmental and taxing authorities;
 - (2) All liens securing sums due or to become due under any mortgage vendor's lien or deed of trust filed for record prior to the time such costs, charges, expenses and/or Assessments become due;
 - (3) All liens securing any loan (including loans made by Declarant) made to an Assessed Party for any part of the purchase price of a Unit.

- B. Such lien may be enforced by foreclosure of the defaulting Assessed Party's property by the Association. Any such foreclosure sale is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Texas Property Code as may be amended from time to time, or in any manner permitted by law. Each Assessed Party, by accepting a deed, expressly grants to the Association a power of sale, as set forth in said Section 51.002, in connection with the assessment lien. In any such foreclosure, the Assessed Party shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The proceeds from a foreclosure sale shall be applied first to the costs and expenses incurred with respect to the foreclosure, including all trustee's and attorneys fees, and the remainder, if any, to the person entitled to such balance under Texas law. The Assessed Party shall also be required to pay to the Association a reasonable rental for the Unit during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver to collect same. The Association shall have the power to bid in the Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same. The Association may not foreclose a lien for Assessments consisting solely of fines. The Assessed Party shall have the right to redeem a Unit sold at a foreclosure sale for unpaid Assessments for a period of ninety (90) days after the foreclosure sale upon payment of the amounts described in Section 82.113 of the Act, or any successor statute.
- C. The amount of the Regular and Special Assessments assessed against a Unit shall also be a debt of the Assessed Party thereof at the time the Assessment is made. Suit to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiving the lien securing same.
- D. In addition, to the extent permitted by law, Declarant reserves and assigns to the Association, without recourse, a vendor's lien against each Unit to secure payment of a Regular Assessment or Special Assessment which is levied pursuant to the terms hereof. Said liens may be enforced by appropriate judicial proceedings and the expenses incurred in connection therewith, including, but not limited to, interest, costs and reasonable attorney's fees, shall be chargeable to the Assessed Party in default. Such lien shall be subordinated and inferior to those liens listed in Sections 5.10A(1), (2) and (3).

5.11 SUBORDINATION OF THE LIEN TO MORTGAGES.

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The lien of the Assessments provided for herein shall be subordinate to the lien of any prior recorded mortgage or mortgages granted or created by the Assessed Party of any Unit to secure the payment of monies advanced and used for the purpose of purchasing and/or improving the Unit. A sale or transfer of any Unit shall not affect the Assessed Party's personal liability for the Assessment. However, the sale or transfer of a Condominium Unit pursuant to a foreclosure, a deed in lieu of foreclosure, assignment in lieu of foreclosure under valid purchase money or improvement mortgages or deeds of trust shall extinguish the lien of such Assessments as to payments coming due prior to such sale or transfer, but shall not relieve the acquiring Assessed Party from future Assessments.

5.12 STATEMENT OF ASSESSMENTS.

Upon the written request of any Assessed Party or any lienholder or prospective lienholder of a Condominium Unit, the Association, by its Board of Directors, shall issue a written statement setting forth the unpaid Assessments, if any, with respect to the subject Unit, the amount of the current Regular Assessments, the date of such Assessment and the due date, credit for advance payments or for prepaid items, including, but not limited to, insurance premiums, which shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid Assessments which become due prior to the date of making of such request shall be subordinate to the lien of the Mortgagee requesting such statement.

ARTICLE VI

DESTRUCTION OR OBSOLESCENCE OF IMPROVEMENTS

6.1 RECONSTRUCTION OR REPAIR; CONDEMNATION.

- A. Substantial Damage. If the Condominium Project shall be damaged by fire or any other casualty, then reconstruction or repair shall be compulsory, unless repair or replacement would be illegal under any state or local health or safety statute or ordinance or at least eighty percent (80%) of the Owners (hereinafter referred to as the "Affected Party or Affected Parties" for purposes of this Section 6.1 only), including each Owner of a Unit, as applicable (hereinafter collectively referred to as "Damaged Property" for purposes of this Section 6.1) that was damaged, and fifty-one percent (51%) of the Mortgagees, vote not to rebuild and/or repair. In the event that the

Affected Parties and Mortgagees decide not to reconstruct such improvements, the Land and the remaining improvements, if any, appurtenant thereto shall be withdrawn from the Regime and sold by the Association, and the net proceeds of such sale along with the net insurance proceeds, if any, shall be distributed to each Affected Party and his or her Mortgagees, as their interests may appear, in accordance with the Percentages set forth in Exhibit "C" to the Declaration. VOL PG.

- B. Extent of Reconstruction or Repair. The reconstruction or repair of any Damaged Property shall be substantially in accordance with this Declaration and the original plans and specifications for the Damaged Property or other improvements unless at least eighty percent (80%) of the Affected Parties and fifty-one percent (51%) of the Mortgagees shall decide otherwise.
- C. Affected Party's Responsibilities. Each Affected Party shall be responsible for the reconstruction, repair or replacement of the interior of his or her Damaged Property, including, but not limited to, furniture, furnishings, floor coverings, paint, wall coverings, window shades, draperies, interior walls, decorative light fixtures, all appliances located therein, and other items of personal property within the Damaged Property. Each Affected Party shall also be responsible for the costs not otherwise covered by insurance carried by such Affected Party and the Association for any reconstruction, repair or replacement of any portion of the Condominium Project necessitated by his negligence or misuse, or the negligence or misuse by his family, tenants, guests, agents, servants, employees or contractors, as determined by the Association, in its sole discretion. In the event damage to all or any part of the interior of a Damaged Property is covered by insurance held by the Association for the benefit of such Affected Party, then such Affected Party shall, subject to the provisions of Sections 6.1E. and 6.1F. hereof, begin construction or repair of such damage upon receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the Association and the Mortgagee to supervise, approve or disapprove such reconstruction or repair during the course thereof. In the event damage to all or any part of the interior of any Damaged Property is not covered by insurance held by the Association for the benefit of such Affected Party, then such Affected Party shall, subject to the right of the Association to supervise, approve or disapprove such reconstruction or repair during the course thereof, reconstruct such Damaged Party at the Affected Party's sole cost and expense.

D. Estimates. As soon as possible after the occurrence of a Casualty which causes damage to any part of the Condominium Project for which the Association has insurance coverage (the "Casualty"), the Association shall obtain reliable and detailed cost estimates of the following:

- (i) The cost of restoring all damage caused by the Casualty to the Common Elements (collectively, the "Common Element Costs"); and
- (ii) The cost of restoring that part of the damage caused by the Casualty to each Damaged Property which is or would be covered by insurance held by the Association, without regard to the policy limits of such insurance (collectively, the "Unit Costs").

E. Allocational Assessments. All insurance proceeds available to the Association with respect to the Casualty shall, subject to the rights of Mortgagees, first be applied to the payment of the actual Common Element Costs and balance thereof, if any, shall thereafter be applied to the payment of the actual Unit Costs. However, if such insurance proceeds are not sufficient to cover the estimated Common Element Costs and the estimated Unit Costs, then an Assessment shall be made against the Affected Parties by the Association in the following manner:

- (i) All Affected Parties shall be assessed on the basis of their Ownership Percentages described in Exhibit "C" for the payment of the estimated Common Element Costs not otherwise paid for by insurance held by the Association; and
- (ii) Each Affected Party who owns such Damaged Property shall be assessed an amount equal to the difference between (a) his or her estimated Unit Costs and (b) an amount calculated by multiplying the remaining insurance proceeds (if any) held by the Association with respect the Casualty, by a fraction, the numerator of which is his or her estimated Unit Costs and the denominator of which is the total of all the estimated Unit Costs.

If actual costs exceed the estimated costs, then an additional Assessment shall be made against Affected Parties by the Association in the above manner based upon actual costs.

F. Eminent Domain. In the event of the taking of any Common Elements by eminent domain or purchase in lieu thereof, the Association shall have the sole authority to determine whether to defend or resist such proceeding, to make any settlement and to convey property in connection with such proceeding. With respect to any taking of Common Elements, all damages and awards shall be determined for the taking as a whole and not for each Damaged Party's interest therein. After determination, the damages and awards shall be first utilized for repair and reconstruction of the remaining Common Elements and the remainder paid to each Affected Party in proportion to his or her Percentages described in Exhibit "C" before the taking, but the portion of the damages and awards attributable to the acquisition of Limited Common Elements must be equally divided among the owners of the Damaged Property to which the Limited Common Element was allocated at the time of acquisition. In the event of any taking of the Condominium Project by eminent domain or private purchase in lieu thereof (which taking or purchase shall affect less than sixty-six and two-thirds percent (66 2/3%) of the Condominium Project), the award for such taking shall be determined as follows:

- (i) The Association shall determine which of the Damaged Properties affected and damaged by such taking may be made tenantable for the purposes set forth in this Declaration, taking into account the reduced size of each Damaged Property so damaged and whether it is reasonably practicable to operate the remaining Units, including the Damaged Properties which may be made tenantable, as a Condominium Regime in the manner provided in this Declaration;
- (ii) In the event that the Association determines that it is not reasonably practicable to operate the undamaged Units and the Damaged Properties which can be made tenantable, then the Regime shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interest by the Affected Party; as tenants-in-common, in the Percentages described in Exhibit "C" previously owned by each Affected Party (which estate shall then be sold and the proceeds distributed in the same manner as if more than sixty-six and two-thirds percent (66 2/3%) of the Condominium Project had been affected); and
- (iii) In the event that the Association determines that it is reasonably practicable to operate the undamaged Units and the Damaged

Properties which can be made tenantable, then the damages and awards made with respect to each Damaged Property which has been determined to be capable of being made tenantable shall be applied to repair and reconstruct such Damaged Property so that it is made tenantable. If the cost of the work exceeds the amount of the award, the additional funds required shall be assessed against the owners of those Damaged Properties which are being repaired or reconstructed so as to be made tenantable. If a portion of one or more Damaged Properties is acquired by eminent domain or purchase in lieu thereof, each acquired Damaged Property's ownership interest shall be reduced in proportion to the reduction in the size of the Damaged Property and the portion of the Ownership Percentage divested from such Damaged Property shall be automatically reallocated to the remaining properties in proportion to the respective Ownership Percentage of those Damaged Properties before the taking, with the partially acquired Units participating in the reallocation on the basis of their reduced Ownership Percentage. With respect to those Damaged Properties which may not be made tenantable, the award made with respect to such Unit shall be paid to the Owner of such Damaged Property or his Mortgagee, as their interests may appear, and the remaining portion of such Damaged Property, if any, shall become a part of the Common Elements and the repair and use of such Damaged Property as a Common Element shall be determined by the Association. Upon the payment of an award for the account of such Owner as provided herein, the Damaged Property shall no longer be a part of the Condominium Project and the Ownership Percentage in the Common Elements for such Damaged Property shall be automatically reallocated to the remaining Units in proportion to the respective Ownership Percentage of those Units before the taking, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the new Ownership Percentages.

If any repair or rebuilding of the remaining portions of the Condominium Project is required as a result of such taking and such taking or purchase shall have affected sixty-six and two-thirds percent (66 2/3%) or more of the Condominium Project, all damages and awards shall be paid to the Association and the Owners of the Damaged Properties as provided above. Such Owners and the remaining Affected Parties shall (subject to the written approval of their Mortgagees) vote whether to rebuild or repair the

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affected portion of the Condominium Project or to take such other action as such owners deem appropriate. The approval of at least eighty percent (80%) of the Owners and Affected Parties shall be required for any such action. If no repair or rebuilding shall be undertaken, then the remaining portion of the Condominium Project shall be deemed regrouped and owned by the remaining Owners in Ownership Percentages equitably adjusted and this Declaration and the Condominium Plat shall be terminated upon the sale of the Condominium Project and distribution of the proceeds thereof to such remaining Owners. Title to each Unit is declared and expressly made subject to the terms and condition hereof, and acceptance by a grantee of a deed or other instrument of conveyance from Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with the Condominium Project upon its taking in whole or in part by eminent domain or conveyance in lieu thereof. The Association is specifically authorized to pay for all expenses in connection therewith as Common Expenses (to the extent the proceeds received from such condemnation or taking in lieu thereof are not adequate to pay such expenses), including, without limitation, assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association deems necessary or advisable in such proceedings. The grant of the power of attorney contained herein shall be irrevocable, coupled with an interest and not voidable upon the incapacity or disability of an Owner. As attorney-in-fact, the Association, acting by and through its President or a Vice President, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interests of an Owner which is necessary and appropriate to the exercise of the powers herein granted. In addition, and without limitation on the generality of the foregoing the Association as said attorney shall have the full power and authority to collect condemnation awards and to distribute the same to the Association, Owners and their respective Mortgagees (subject to the provisions hereof) as their interests may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Owners and the Condominium Project as shall be necessary or convenient to the accomplishment of the foregoing. Any repair, reconstruction or replacement made of the improvement(s) shall be to substantially the same condition existing prior to the damage, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. Any condemnation proceeds collected

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shall be available to the Association for the purpose of repair, restoration, replacement and expenses described above unless Owners agree not to rebuild in accordance with the provisions set forth above.

G. Damage to Unit. In the event of substantial damage to or destruction of any Damaged Property or any part of the Common Elements, any Mortgagee shall be entitled to timely written notice of any such damage or destruction at the address appearing in the Association's records, and no provision hereof shall entitle an Affected Party or any other party to the priority granted to such Mortgagee with respect to the distribution of any insurance proceeds attributable thereto. In the event any Unit or portion thereof, or the Common Elements or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, any Mortgagee shall be entitled to timely written notice of any such proceeding or proposed acquisition at the address appearing in the Association's records, and no provision hereof shall entitle an Owner or any other party to the priority granted to such Mortgagee with respect to the distribution of the proceeds of any award or settlement attributable thereto.

ARTICLE VII

PROTECTION OF MORTGAGEE

7.1 MORTGAGEE ACCESS TO BOOKS AND RECORDS.

The Mortgagees shall, upon written request, be entitled to (i) inspect the Declaration and any amendments thereto, the Articles of Formation, the By-Laws, the Rules and Regulations, and the books and records of the Condominium Project; (ii) receive, free of charge, an annual financial statement of the Condominium Project prepared by the Association or its accountants; (iii) written notice of all meetings of the Association; and (iv) be permitted to designate a representative to attend all meetings of the Association.

7.2 RESERVE FUND.

The Association shall establish adequate reserve funds for replacement of Common Element components and fund the same by regular monthly payments rather than by extraordinary Special Assessments. In connection therewith and as provided for in Section 5.4 F. above, there shall be established a working capital fund equal to at

least two (2) months estimated Regular Assessment charge for each Unit, said deposit to be collected from each Owner at closing of Unit sale; provided, however, the Declarant shall not be responsible for any such reserve fund payments. Declarant's use of such funds is strictly limited to those permitted uses by Declarant in accordance with Section 5.4 F. above.

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7.3 APPROVAL FOR AMENDMENTS TO DECLARATION.

The prior written approval of at least sixty-seven percent (67%) of the Owners and fifty-one (51%) of the First Mortgagees shall be required for the following:

- A. Abandonment or termination of the Condominium Regime, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;
- B. Any material amendment to the Declaration or to the Bylaws of the Association, including, but not limited to:
 - (1) any change in the Ownership Percentage, or fraction of interest of Unit Owners, in the Common Elements except as permitted with respect to special development rights reserved to Declarant herein;
 - (2) any change in the priority of Assessment liens or the subordination of liens;
 - (3) material revisions to the responsibility for maintenance, repairs and replacement of the Common Elements;
 - (4) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use except as provided herein related to special development rights reserved herein to Declarant;
 - (5) redefinition of any Unit boundaries;
 - (6) convertibility of Units into Common Elements or vice versa;
 - (7) expansion or contraction of the Condominium Regime, or the addition, annexation, or withdrawal of property to or from the Regime except as provided herein related to special development rights reserved herein

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- (8) any action to terminate the legal status of the Condominium Regime after substantial destruction or condemnation;
 - (9) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements;
 - (10) Any change in the voting rights for the Condominium Project and the Owners;
 - (11) Any change in requirements for liability insurance or fidelity bonds contained in Section 4.7 hereof;
 - (12) Any change in the boundaries of any Units except as expressly set forth in this Declaration;
 - (13) Any change in the requirements as to leasing of the Units;
 - (14) The imposition of any right of first refusal or similar restriction on the right of the Unit Owner to sell, transfer, or otherwise convey his or her Unit;
 - (15) Any change to the provisions contained herein as to restoring or repairing the Project following a casualty or condemnation;
 - (16) Any change or revision of a provision contained herein that is for the express benefit of Mortgagees; and
 - (17) Any change in the method of creating Assessment liens or the priority of Assessment liens.
- C. The consent of Owners of Units to which at least 67% of the votes in the Association are allocated and the approval of fifty-one percent (51%) of the Mortgagees shall be required to amend any provisions included in this Declaration, the By-Laws or equivalent documents of the Condominium Regime for the express benefit of holders or insurers of first mortgages on Units.

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D. Notwithstanding the foregoing, for Mortgagees to be eligible for the benefits of this Section 7, they must first request notice as required by Section 7.8 hereof. It shall be deemed that a Mortgagee approves any notice transmitted in accordance with the terms hereof, if such Mortgagee fails to respond within thirty (30) days from delivery of such notice.

7.4 MANAGEMENT AGREEMENT AND OTHER CONTRACTS.

Any Management Agreement or contract entered into by the Association after the Declarant Control Period must contain a provision that same is terminable by the Association without payment of a termination fee for cause upon not more than thirty (30) days written notice or without cause upon ninety (90) days written notice and the term of such Management Agreement or contract will not exceed a period of one (1) year renewable by agreement of the parties for successive one (1) year periods. In the event of the termination of the Management Agreement or other contract as provided herein, the Association shall enter into a new Management Agreement or contract with a new management agent or other party prior to the effective date of the termination of the old Management Agreement or contract.

7.5 RIGHT TO PARTITION.

No Unit may be partitioned or subdivided by the Owner thereof.

7.6 TAXES, ASSESSMENTS AND CHARGES.

All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Condominium Units and not to the Condominium Project as a whole.

7.7 PROSPECTIVE PURCHASERS.

The Association shall make available to Owners, Mortgagees and prospective purchasers current copies of the Declaration, the Association's Articles of Formation and By-Laws, the Rules and Regulations and the most recent audited or unaudited financial statements of the Association. Such documents must be made available for inspection upon request during normal business hours following reasonable notice.

7.8 MORTGAGEE NOTICE.

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A Mortgagee, insurer or guarantor of a first mortgage, upon written request to the Association, (such request to state the name and address of such Mortgagee, insurer or guarantor and the Unit number), will be entitled to timely written notice of:

- (1) Any proposed amendment of the Condominium instruments effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for common expense appertaining thereto, (iii) the number of votes in the Association appertaining to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted;
- (2) Any proposed termination of the Condominium Regime;
- (3) Any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a first mortgage held, insured or guaranteed by such eligible holder;
- (4) Any delinquency in the payment of Assessments or charges owed by an Owner of a Unit subject to the mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of 60 days;
- (5) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- (6) Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.1 AMENDMENT.

Subject to the provisions of Sections 2.11 and 7.3 hereof, this Declaration shall not be revoked, nor shall any of the provisions herein be amended during the first twenty (20) year period from the date this Declaration is recorded unless the Owners representing an aggregate ownership interest of ninety percent (90%) of the

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Common Elements agree to such revocation or amendment by instruments duly recorded and thereafter only if seventy-five percent (75%) of the Owners agree to such revocation or amendment by instruments duly recorded. But no amendment shall affect Declarant's right to exercise the duties and functions of the Board of Directors as allowed in Section 4.2 hereof.

8.2 CORRECTION OF ERROR.

Declarant reserves, and shall have the continuing right, until the end of the Declarant Control Period, without the consent of the other Owners or any Mortgagee, to amend this Declaration or the Bylaws for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration or Federal Housing Administration, provided that no such amendment shall change the stated number of Units or proportionate ownership interest in the Common Elements attributable thereto.

8.3 OWNERSHIP OF COMMON PERSONAL PROPERTY.

Upon termination of the Declarant Control Period as defined herein, Declarant shall execute and deliver a bill of sale to the Association transferring all items of personal property located on the Premises, furnished by Declarant, and intended for the common use and enjoyment of the Condominium Unit Owners and occupants. No Owner shall have any other interest and right thereto, and all such right and interest shall absolutely terminate upon the Owner's termination of possession of his Condominium Unit.

8.4 NOTICE.

All notices, demands or other notices intended to be served upon an Owner shall be sent by ordinary or certified mail, postage prepaid, addressed in the name of such Owner in care of the Unit number and Building address of such Owner. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by ordinary or certified mail, postage prepaid, to DRECOL PROPERTIES, LLC, a Texas limited liability company, 221 Eastridge, Granbury, Texas 76049, until such address is changed by a notice of address change sent by the Association.

8.5 CONFLICT BETWEEN DECLARATION AND BYLAWS.

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Whenever the application of the provisions of this Declaration conflict with the application of any provision of the Bylaws adopted by the Association, the provisions or application of this Declaration shall prevail.

8.6 INVALIDATION OF PARTS.

If any of the provisions of this Declaration or any section, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any provision, section, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

8.7 OMISSIONS.

In the event of the omission from this Declaration of any word, sentence, clause, provision or stipulation which shall be necessary for the accomplishment of the intent and purposes hereof, or any part hereof, then such omitted matter shall be supplied by inference and/or by reference to the Act.

8.8 TEXAS CONDOMINIUM ACT.

The provisions of this Declaration shall be in addition and supplemental to the Uniform Condominium Act ("Act") of the State of Texas appearing in Sections 82.001 of the Texas Property Code and to all other provisions of law.

8.9 GENDER.

That whenever used herein unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

8.10 TAXATION.

A. Of Units After Separate Assessment. Each Unit shall be assessed and taxed for all purposes as a separate parcel of real estate entirely independent of the Building, and independent of the Condominium Project or the Common Elements thereof, and each owner shall be solely responsible for the payment of all taxes, municipal claims, charges and assessments of any nature whatsoever assessed against such property. The valuation of the General

Common Elements and the Limited Common Elements shall be assessed separately to each owner in accordance with his or her Ownership Percentage in the Common Elements. Such payment shall be made prior to the due date of such taxes, municipal claims, charges and assessments. PG.

B. Of Units Prior to Separate Assessment. Prior to the time the respective taxing authorities shall have assessed and taxed each Unit as a separate parcel of real estate as provided above, any such taxes, municipal claims, charges and assessments assessed against the Condominium Project as a whole shall be a Common Expense.

8.11 MASTER DECLARATION. The Condominium Project, Buildings, Units and Common Elements and the Owners of Units are all subject to the terms of the Master Declaration and to the extent the Association fails or refuses to enforce the terms and provisions of this Declaration and the Documents, the Master Declaration and/or the Master Association shall have the right to enforce the terms and provisions of this Declaration and the Documents. Each Owner hereunder shall also be a member of the Master Association and shall have the voting rights and benefits set forth in the Master Association and shall also be subject to the terms, restrictions, covenants and conditions set forth in the Master Declaration

8.12 REMEDIES.

In the event any default is made by any Owner under the Act, this Declaration, the Bylaws, or the Rules or Regulations, the Board or the Association or their representative shall have all of the rights and remedies which may be provided by the Act, this Declaration, the Bylaws or which may be available at law or in equity, and may prosecute any action or other proceeding against any defaulting Owner and/or Owners for enforcement of any lien or to enforce compliance with the matter with respect to which default has been made, by injunctive relief or otherwise, or for the collection of any sums, debts or damages in default or arising from any default. The Board or its authorized representative shall be further empowered and authorized to correct and cure any matter in default and to do whatever may be necessary for such purpose. All expenses incurred in connection with any such action or proceeding shall be a part of the Common Expenses of this condominium regime and collectible from each Owner as in the case of other Common Expenses.

ARTICLE IX

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**DECLARANT CONTROL PERIOD AND DEVELOPMENT PERIOD,
RIGHTS, REPRESENTATIONS AND RESERVATIONS**

9.1 GENERAL PROVISIONS

- A. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete.
- B. General Reservation & Construction. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any Mortgagee, other Owner, or the Association, prevent or interfere with the rights contained in Article IX which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between Article IX and the remainder of the Declaration, Article IX controls. Article IX may not be amended without the prior written consent of Declarant. The terms and provisions of Article IX must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.
- C. Purpose of Development and Declarant Control Periods. Article IX gives Declarant certain rights during the Development Period and the Declarant Control Period to ensure a complete and orderly build-out and sellout of the Property, which is ultimately for the benefit and protection of Owners and Mortgagees. Declarant may not use its control of the Association and the Property for an advantage over the Owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate without cause with 90 days' notice.

9.2 DECLARANT CONTROL PERIOD RESERVATIONS. For the benefit and protection of Owners and Mortgagees, and for the purpose of ensuring a complete and orderly build-out and sellout of the Property, Declarant will retain control of the Association, subject to the following:

- A. Organizational Meeting. Before the end of the Declarant Control Period or within 120 days after the conveyance of 75 percent of the Units that may be created (including property subject to annexation) to Owners other than

Declarant, the Owners will elect directors to the Board at an organizational meeting of the Members of the Association. Declarant or the Association will give written notice of the organizational meeting to an Owner of each Unit at least 10 days before the meeting. For the organizational meeting, Owners of 10 percent of the Units constitute a quorum. The Board elected at the organizational meeting will elect the officers of the Association not later than 30 days after the end of the Declarant Control Period. The directors elected at the organizational meeting will serve until the next annual meeting of the Association or a special meeting of the Association called for the purpose of electing directors, at which time the staggering of terms will begin.

- B. Officers & Directors. During the Declarant Control Period, the Board may consist of three (3) persons. Declarant may appoint, remove and replace any officer or director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "Leader," subject to the following limitation. Within 120 days after the conveyance of 50 percent of the Units that may be created (including property subject to annexation, if any) to Owners other than Declarant, at least one-third of the Board must be elected by Owners other than Declarant.
- C. Expenses of Declarant. Expenses related to the completion and marketing of the Property (including, but not limited to construction of additional Buildings and Units and planned Common Element improvements will be paid by Declarant and are not expenses of the Association.
- D. Budget Control. During the Declarant Control Period, the right of Owners to veto Special Assessments or increases in Regular Assessments is not effective and may not be exercised.
- E. Management Contract. If Declarant enters into a professional management contract on behalf of the Association during the Declarant Control Period, the Association has the right to terminate the contract without cause or penalty, but with at least 30 days notice to the manager, at any time after a Board elected by the Owners takes office.

9.3 DECLARANT DEVELOPMENT PERIOD RESERVATIONS. Declarant makes the following representations and reservations regarding Declarant's development of the Property:

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- A. Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, changes in the sizes, styles, configurations, materials and appearances of Units, the number of Buildings, Units (but in no event greater than four (4) Buildings nor more than eighteen (18) Units) and Common Elements. Declarant may elect not to construct one or more of the Buildings labeled "Need Not Be Built."
- B. Architectural Control. During the Development Period, Declarant has the absolute right to appoint the Architectural Control Committee for the Association, consisting of any number of persons who serve at the pleasure of Declarant, and who may be removed and replaced by Declarant. Notwithstanding the foregoing, during the Development Period, after termination of Declarant Control, or earlier if Declarant permits, the Board may appoint or serve as a "modifications committee" to respond exclusively to modifications of completed Units that are owned by persons other than Declarant. A modifications committee may not involve itself with the approval of new Units, Common Elements, or Units owned or leased by Declarant.
- C. Transfer Fees. During the Development Period, Declarant shall not be required to pay transfer-related and resale certificate fees.
- D. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents, without consent of other Owners or any Mortgagee, for the following limited purposes:
- (i) To meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.
 - (ii) To correct any defects in the execution of this Declaration or the other Documents.
 - (iii) To add real property to the Property, in the exercise of statutory Development Rights.
 - (iv) To create an aggregate maximum of four (4) Buildings and an aggregate maximum of eighteen (18) Units within the Condominium

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Project, and to create additional General Common Elements and Limited Common Elements within the Property in ~~the~~ exercise of statutory Development Rights and to reallocate the Owners Ownership Interest in the Common Elements in accordance with Section 2.2B above and to reallocate voting rights in accordance with Section 4.6 above.

- (v) To subdivide, combine, or reconfigure Units or convert Units into Common Elements, in the exercise of statutory Development Rights.
- (vi) To withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved," in the exercise of statutory Development Rights.
- (vii) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- (viii) To change the name or entity of Declarant.
- (ix) For any other purpose, provided the amendment has no material adverse effect on any right of any Owner.
- (x) To supplement and amend the Plat to add up to an additional two (2) Buildings and an additional ten (10) additional Units for a maximum of four (4) Buildings and eighteen (18) Units within the Condominium Project.

E. Statutory Development Rights. As permitted by the Act, Declarant reserves the following Development Rights which may be exercised during the Development Period:

- (i) to add real property to the Property;
- (ii) to create Units, General Common Elements, and Limited Common Elements within the Property;
- (iii) to subdivide Units or convert Units into Common Elements;
- (iv) to withdraw from the Property any portion of the real property marked on the Plat and Plans as Development Rights Reserved; provided that

no Unit in the portion to be withdrawn has been conveyed to an Owner other than Declarant.

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F. Development Rights Reserved. Regarding portions of the real property shown on the Plat and Plans as "Development Rights Reserved," or "Need Not Be Built," if any, Declarant makes no assurances as to whether Declarant will exercise its Development Rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

9.4 SPECIAL DECLARANT RIGHTS. As permitted by the Act, Declarant reserved the below-described Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Property during the Development Period. Unless terminated earlier by an amendment to this Declaration executed by Declarant, any Special Declarant Right may be exercised by Declarant so long as Declarant holds a Development Right to create additional Units or Common Elements or Declarant owns a Unit, whichever ceases last. Earlier termination of certain rights may occur by statute.

- (i) The right to complete or make improvements indicated on the Plat and Plans.
- (ii) The right to exercise any Development Right permitted by the Act and this Declaration.
- (iii) The right to make the Property part of a larger condominium or planned community, provided more than fifty percent (50%) in the aggregate of the votes of the Owners agree in writing to make the Property part of a larger condominium or planned community; provided however, the Owners expressly agree by acceptance of a deed to their Unit that Declarant shall have the absolute right to increase the number of Buildings constituting the Property from two (2) Buildings to four (4) Buildings and the number of Units from eight (8) Units to eighteen (18) Units without the consent of the Owners.
- (iv) The right to use Units owned or leased by Declarant as models, storage areas and offices for the marketing, management, maintenance, customer service, construction and leasing of the Property.
- (v) For purposes of promoting, identifying, and marketing the Units, Declarant

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reserves an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events, such as open houses, MLS tours, and brokers' parties, at the Property to promote the sale of Units.

- (vi) Declarant has an easement and right of ingress and egress in and through the Common Elements and Units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant's obligations under the Act and this Declaration.
- (vii) The right to appoint or remove any Declarant-appointed officer or director of the Association during the Declarant Control Period consistent with the Act.

9.5 ADDITIONAL EASEMENTS & RIGHTS. Declarant reserves the following easements and right, exercisable at Declarant's sole discretion, for the duration of the Development Period:

- (i) An easement and right to erect, construct, and maintain on and in the Common Elements and Units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property.
- (ii) The right to sell or lease any Unit owned by Declarant. Units owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained elsewhere in this Declaration or the other Documents.
- (iii) The right of entry and access to all Units to perform warranty-related work, if any, for the benefit of the Units being entered, adjoining Units, or Common Elements. Requests for entry must be made in advance for a time reasonably convenient for the Owner who may not unreasonably withhold consent.
- (iv) An easement and right to make structural changes and alterations on Common Elements and Units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered Common Elements and Units to

conform to the architectural standards of the Property. The restoration will be done within 120 days after termination of the Development Period.

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- (v) An easement over the entire Property, including the Units, to inspect the Common Elements and all improvements thereon and related thereto to evaluate the maintenance and condition of the Common Element Improvements.

9.6 COMMON ELEMENTS.

- A. Maintenance Orientation. Within 60 days of the organizational meeting, Declarant will invite a non-Declarant representative of the Association to an orientation on the maintenance aspects of the Property. The Association's managing agent is qualified to serve as the Association's representative at the orientation, even if having been hired by the Declarant-appointed Board. One purpose of the orientation is to provide continuity of maintenance information during the period in which control of the Association transfers from Declarant to the other Owners. A typical orientation occurs during a site inspection and is formalized with a writing signed by the representatives of Declarant and the Association.
- B. No Conveyance. Because the Common Elements are owned by the Owners, collectively and in undivided interests, the Common Elements are not capable of being separately conveyed. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of the ownership of the Common Elements. Because ownership of the Common Elements is not conveyed by Declarant to the Association, there is no basis for the popular misconception that Owners and/or the Association may "accept" or "refuse" the Common Elements.

- 9.7 SUCCESSOR DECLARANT. Subject to the terms and provisions of Section 9.8 below, Declarant may designate one or more Successor Declarant for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Real Property Records of Hood County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

9.8 RIGHT OF FIRST REFUSAL. In the event that Declarant elects to sell any portion of the undeveloped portion of the Property to an unaffiliated third party, other than to Owners in connection with the purchase of Units (the "Undeveloped Property"), the Owners shall have the collective right ("Refusal Right") to purchase the Undeveloped Property that Seller intends to sell pursuant to the terms and provisions of this Section 9.8. In the event that Declarant receives an offer (the "Third Party Offer") from an unrelated third party (the "Third Party") to purchase all or a portion of the Undeveloped Property and Declarant desires to accept such Third Party Offer, Declarant shall notify the Owners in writing of the terms of the Third Party Offer and deliver to the Owners a true and correct copy of the contract of sale that Declarant intends to accept (the "Third Party Contract"). The Owners shall have a period of twenty (20) days following the mailing of Declarant's notice and a true and correct copy of the Third Party Offer and the Third Party Contract within which to notify Declarant in writing that one or more of the Owners have elected to purchase the portion of the Undeveloped Property subject to the Third Party Offer on terms identical to those contained in the Third Party Offer and the Third Party Contract. In the event that the Owners fail to timely notify Declarant that such Owners have elected to purchase the portion of the Undeveloped Property subject to the Third Party Offer and the Third Party and the sale contemplated by the Third Party Offer is actually entered into with such Third Party within ninety (90) days after the expiration of such twenty (20) day period upon substantially the same terms and conditions as are set forth in such Third Party Offer, the Owners' rights under this section shall terminate with respect only to such Third Party Offer (but not with respect to any subsequent Third Party Offer, if any) and with respect only to the portion of the Undeveloped Property which is the subject of the Third Party Offer (and not with respect to any other portion of the remaining Undeveloped Property) subject to possible revival of such rights as hereinafter provided. In the event one or more of the Owners timely elect to purchase the Undeveloped Property subject to the Third Party Offer on the terms set forth in the Third Party Offer and the Third Party Contract, those Owners electing to purchase shall execute a contract (the "Refusal Purchase Contract") substantially similar in all material respects to the Third Party Contract (save and except the purchaser shall be the Owners who have elected to purchase) within ten (10) days following the date on which Declarant submits such Refusal Purchase Contract to Owners (the Owners electing to purchase must execute four (4) original copies of such Refusal Purchase Contract and deliver same to Declarant) whereupon Declarant shall promptly execute and return to Owners two (2) fully executed original copies of the Refusal Purchase Contract timely submitted by Owners pursuant to the terms and provisions hereof on or before five (5) business days following receipt of same. Notwithstanding anything to the contrary contained or implied elsewhere herein, it is expressly agreed and understood that the Refusal Purchase Contract shall be substantially identical in form and substance to the Third Party Contract. Any failure by an Owner to timely notify Declarant of Owner's election to purchase the Undeveloped Property that is subject to the Third Party Offer (or applicable portion thereof) shall automatically terminate all rights of such Owner regarding the Refusal Right with respect only to such Third Party Offer (but not with respect to any subsequent Third Party Offer, if any) and with respect only to the portion of the Undeveloped Property covered by such Third Party Offer (and not with respect to any

other portion of the remaining Undeveloped Property). Notwithstanding anything to the contrary contained or implied elsewhere herein, in the event either (a) the Third Party Contract contemplated by the Third Party Offer is not actually entered into with the Third Party within ninety (90) days after the expiration of the twenty (20) days as provided hereinabove upon substantially identical terms and conditions as are set forth in such Third Party Offer and the Third Party Contract or (b) the Third Party Contract is so timely entered into, but the closing and consummation thereof does not actually occur, the Owners' rights under this section shall once again be in full force and effect and the Declarant shall once again be required to submit any applicable Third Party Offer and the Third Party Contract to Owners as hereinabove set forth. Any notice, request, demand or other communication required or permitted to be given to either party hereunder shall be in writing and shall be deemed to have been given, delivered and received when deposited into an official depository under the regular care and custody of the United States Postal Service located within the confines of the Continental United States of America, and sent postage prepaid, to the addresses of the Owners provided by the Association to the Declarant that are on file with the Association. As between and among the Owners, the Owners timely electing to participate in the purchase of the Undeveloped Property subject to the Third Party Offer shall participate prorata in proportion to their respective Percentage Interest in the Common Elements or as otherwise agreed to by the participating Owners. The foregoing Refusal Right shall not be applicable to the sale of one or more Units by Declarant. Upon completion of the fourth and final Building of the Project the rights under this Section 9.18 shall terminate. Notwithstanding the foregoing any sale by Declarant to a Third Party or to the Owners of any Undeveloped Property shall be expressly subject to the Development Obligations of Declarant and the purchaser(s) shall expressly assume such obligations including, but not limited to the completion of any and all Buildings identified herein and labeled "Must be Built".

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 29th day of February, 2008.

DECLARANT:

DRECOL PROPERTIES, LLC, a Texas limited liability company

By: Steve Bumpas

Steve Bumpas, President

CONDOMINIUM DECLARATION

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Exhibits:

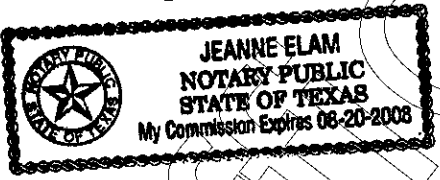
- Exhibit "A" - Legal Description of Property
- Exhibit "A-1" - List of Easements and Restrictions Affecting Property
- Exhibit "B" - Condominium Plat and Plan
- Exhibit "C" - Schedule of Initial Ownership Percentage
- Exhibit "D" - Initial Allocation of Common Expenses and Initial Regular Assessments

STATE OF TEXAS §
 §
 COUNTY OF HOOD §

Before me, the undersigned Notary Public, on this day personally appeared Steve Bumpas, known to me to be the President of DRECOL PROPERTIES, LLC, LLC, a Texas limited liability company, and acknowledged to me that he was duly authorized to execute the foregoing in and for said limited liability company the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 29 day of February, 2008.

My Commission expires:



Jeanne Elam

 Notary Public in and for the
 State of Texas

CONDOMINIUM DECLARATION

EXHIBIT "A"
Legal Description of Property

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Lot 1, Block 1 of HERON'S NEST AT HARBOR LAKES, an addition to the City of Granbury, Hood County, Texas, according to the Amended Plat thereof recorded in Slide C-120 of the Plat Records of Hood County, Texas.

Unofficial Copy

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EXHIBIT "A-1"

List of Easements and Restrictions Affecting Property

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EXHIBIT A-1

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List of Easements and Restrictions Affecting Property

1. That certain Declaration of Covenants, Conditions and Restrictions for Harbor Lakes, dated effective as of the 27th day of December, 2000, applicable to certain real property described in Exhibit "A" attached thereto, filed for record on December 28, 2000 in Volume 1726, Page 0001 of the Real Property Records of Hood County, Texas;
2. That certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Harbor Lakes (with Joinder of Current Owners) dated as of June 15, 2001, recorded in Volume 1755, Page 0738 of the Real Property Records of Hood County, Texas;
3. Volume 2234, Page 12,
4. That certain Declaration of Annexation and Supplemental Declaration No. 3-B (Heron's Nest at Harbor Lakes) dated effective September 1, 2006, recorded in Volume _____, Page _____ of the Real Property Records of Hood County, Texas.
5. All oil, gas and other minerals of every character in and under the herein described property, reserved by Forestar (USA) Real Estate Group Inc. in instrument recorded in Volume 2237, Page 497 of the Deed Records of Hood County, Texas, reference to which instrument is here made for all purposes. Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.
6. Twenty-five foot building lines along streets; Fifteen foot utility easement along streets; Five foot utility easement along Northerly and Easterly lot lines; Visibility, access and maintenance easements; various utility easements; Twenty-one foot public fire lane; Private access and utility easement; Twenty-four foot public fire lane, private access and utility easement; Twenty foot public fire lane, private access and utility easement; 20 x 5 private drainage easement; Fifteen foot private drainage easement; Three foot decorative fence maintenance easement along Southerly and Westerly lot lines per plat recorded in Slide C-89 of the Plat Records of Hood County, Texas.
7. Perpetual, nonexclusive easement across any portion of any lot outside of the permitted building area as reasonably required; blanket easement to maintain and correct drainage of surface waters and other erosion controls; per restrictions recorded in Volume 1726, Page 0001 and Volume 1755, Page 0738 of the Real Property Records of Hood County, Texas;

8. Protrusions of concrete walk onto adjoining property as shown on Condo Plat prepared by Michael W. Myers attached hereto as Exhibit "B" to this Declaration.

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9. Utilities, private roadway and other related matters shown on Condo Plat prepared by Michael W. Myers attached hereto as Exhibit "B" to this Declaration.

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EXHIBIT "B"
Condominium Plat and Plan

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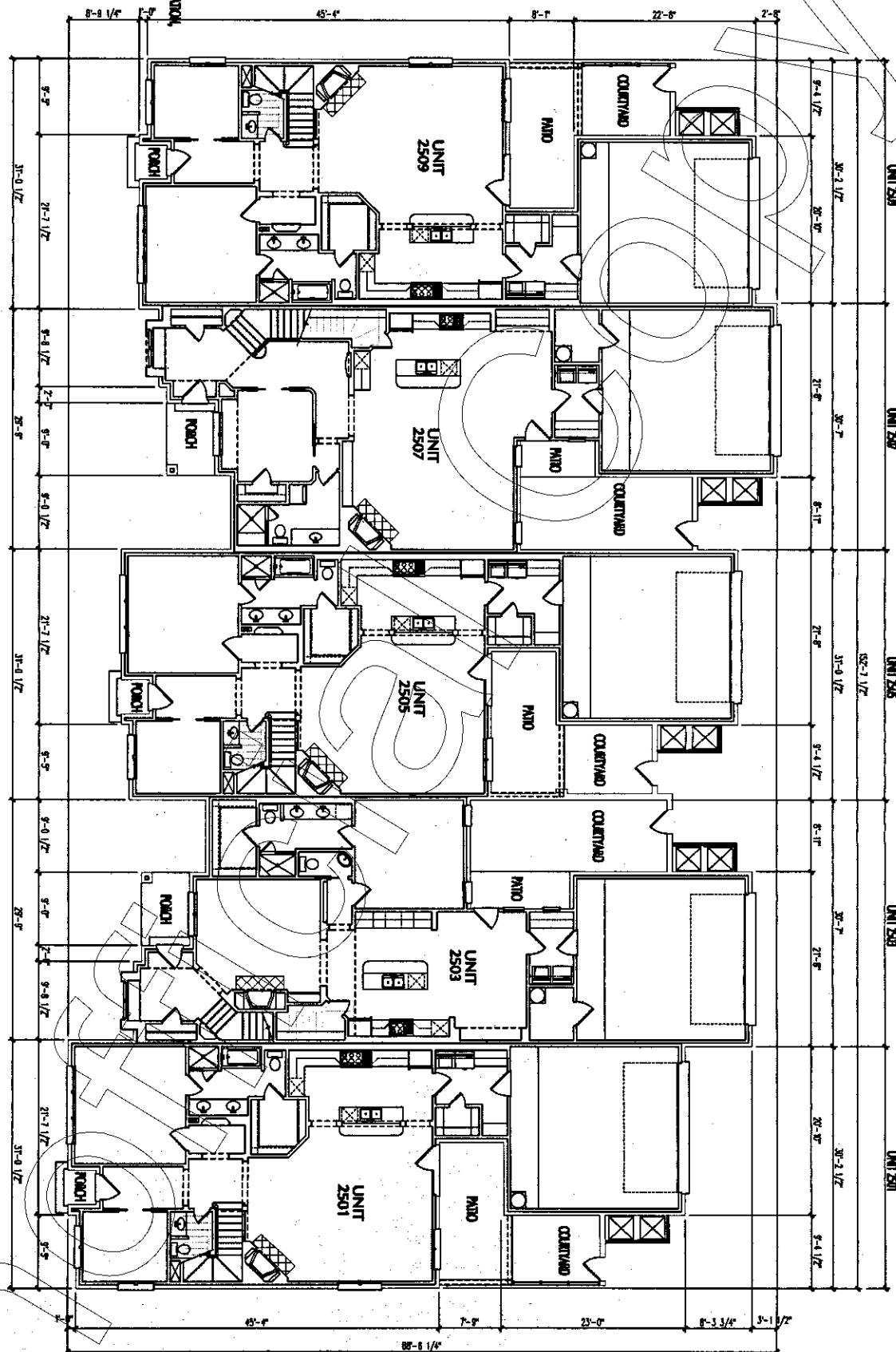
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CONDOMINIUM DECLARATION

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NOTICES: GENITIVE
The undersigned hereby certifies to DISCOA PROPERTIES, LLC and HERON'S NEST AT HARBOR LAKES HOMEOWNERS ASSOCIATION, INC. that (a) the Plans of Building 1 and 2 of Heron's Nest at Harbor Lakes, a Condominium Project, attached to this Contract, were made by the undersigned licensed Architect (a) the Plans comply with the building and department of fire and safety codes of the state and the city's building codes; and (b) the Plans comply with the horizontal and vertical dimensions and the unit's identifying number. Date February 12, 2008

RPGA Design Group, Inc.
By: *[Signature]*
Richard P. Garza
Texas Architectural License #15143 09/1995



AREA	1ST FLOOR	2ND FLOOR	TOTAL AREA	SO. FT.
UNIT 2509	1,504	1,036	2,540 SQ. FT.	1,371
UNIT 2507	812	458	1,270 SQ. FT.	1,377
UNIT 2505	824	430	1,254 SQ. FT.	656
UNIT 2503	656	458	1,114 SQ. FT.	1,377
UNIT 2501	1,504	1,036	2,540 SQ. FT.	1,377

01 BUILDING I FIRST FLOOR PLAN

BUILDING I FIRST FLOOR PLAN

**HERON'S NEST
AT
HARBOR LAKES**
TEXAS

R P G A
DESIGN GROUP, INC.
ARCHITECTURE SPACEPLANNING INTERIORS

PROJECT: 0604
DRAWING NO.: 0604-01
DATE: 02/12/08
SCALE: AS SHOWN
DESIGNED BY: R.P.G.
CHECKED BY: R.P.G.
DATE: 02/12/08
PROJECT: 0604
DRAWING NO.: 0604-01
DATE: 02/12/08
SCALE: AS SHOWN
DESIGNED BY: R.P.G.
CHECKED BY: R.P.G.
DATE: 02/12/08



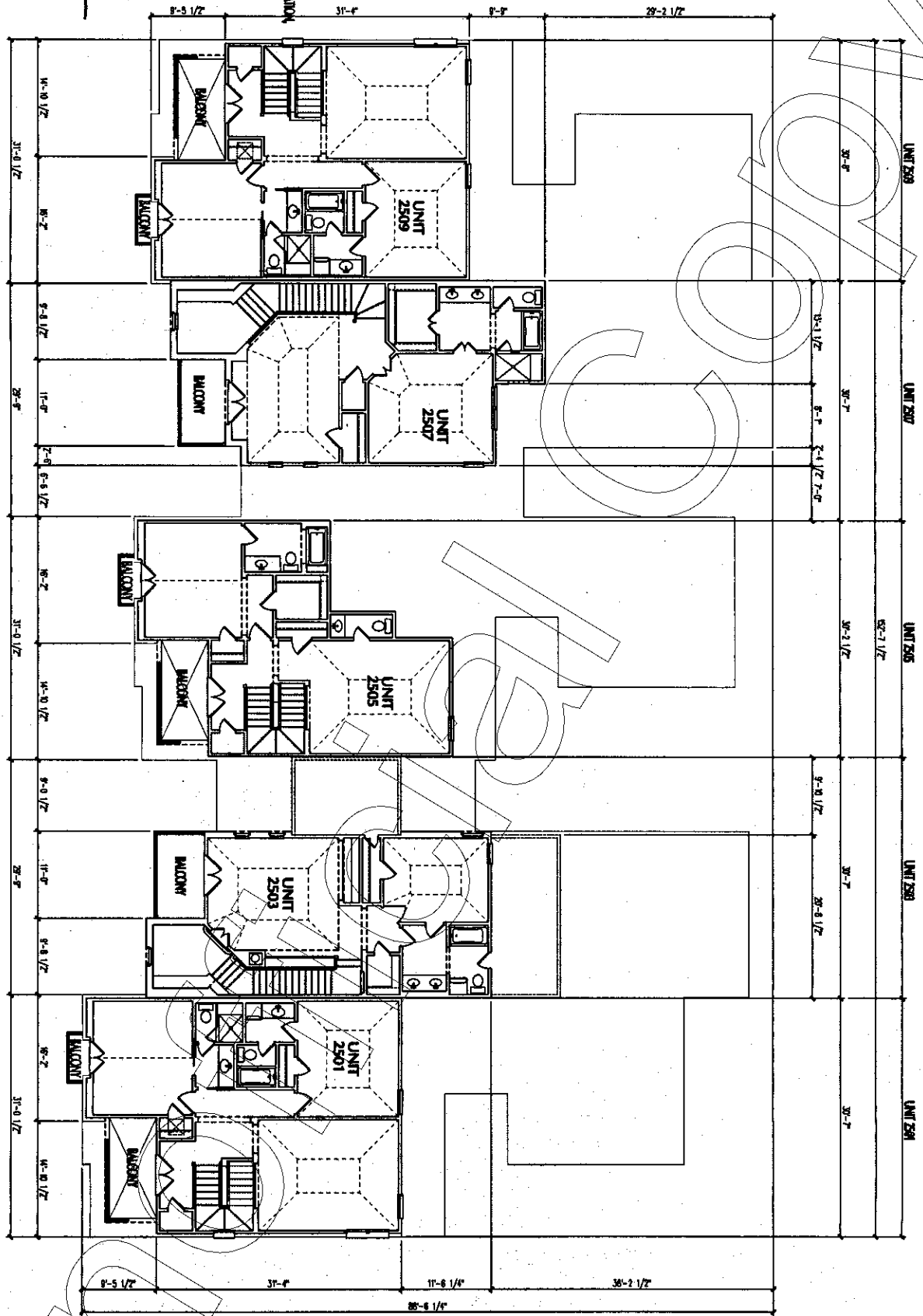
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ARCHITECTS CERTIFICATE

The enclosed hereby certifies to BRCA PROPERTIES, LLC and HERON'S NEST AT HARBOR LAKES HOMEOWNERS ASSOCIATION, INC. that (1) the Plans of Building I and II of Heron's Nest at Harbor Lakes, a Condominium Project, attached to this Certificate, were made by the undersigned licensed Architect; (2) the Plans comply with the National and provisions of the local laws and codes of each state, and the city's identifying number; and (3) the Plans comply with the International Building Code and the work identifying number. Date: February 13, 2009

BRCA Design Group, Inc.
By: *[Signature]*
Richard P. Cozza
Texas Architectural License #15143 (09/1995)

01 BUILDING I SECOND FLOOR PLAN



BUILDING I SECOND FLOOR PLAN

**HERON'S NEST
AT
HARBOR LAKES**
GRANBURY,
TEXAS

R P G A
DESIGN GROUP, INC.
ARCHITECTURE INTERIORS PLANNING

OWNER: BRCA
CHECKED BY: RPK
DATE: 02/13/09
SCALE FOR PRINT: 1/8"=1'-0"
SCALE FOR PLOT: 1/8"=1'-0"
DATE FOR PLOT: 02/13/09
DATE FOR CONSTRUCTION: 02/13/09
PROJECT NO.: 09-001
SHEET NO.: A-4.03

PROJECT NO.: 09-001
SHEET NO.: A-4.03

10000 Lakeshore Blvd. Suite 100 Fort Worth, Texas 76104 817-556-8877 Fax: 817-556-8887 www.rpga.com

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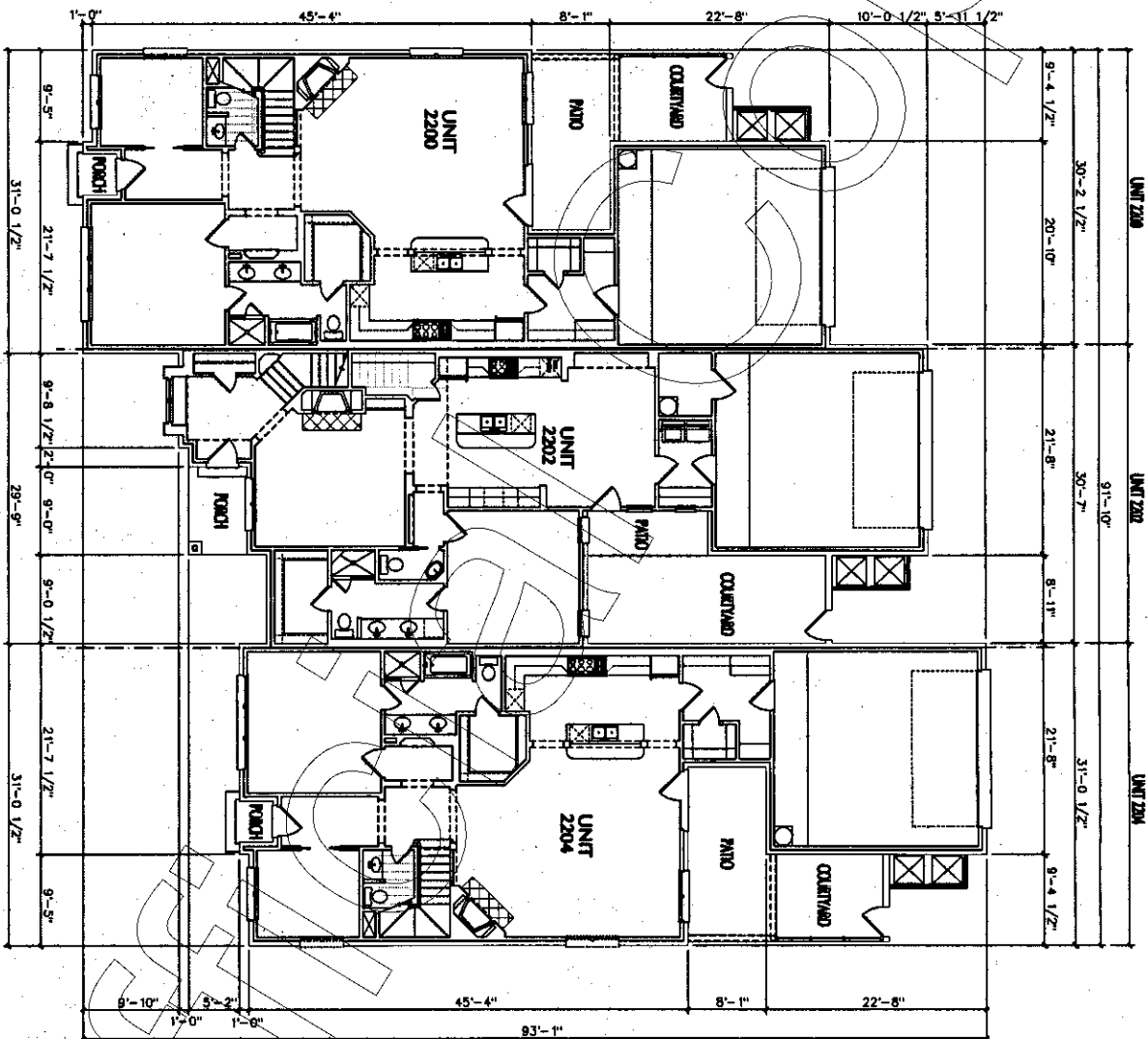
ARCHITECTS CERTIFICATE

The undersigned hereby certifies to DIRECTOR, PROPERTIES, LLC and HERON'S NEST AT HARBOR LAKES HOMEOWNERS ASSOCIATION, INC. that (a) the Plans of Buildings I and II of Heron's Nest at Harbor Lakes, a Condominium Project, attached to this Certificate, were made by the undersigned licensed Architect; (b) the Plans correctly show the location and dimensions of the vertical boundaries of each unit, and the unit's identifying number; and (c) the Plans correctly show the horizontal unit boundaries and the unit's identifying number. Date: February 19, 2008

RPGA Design Group, Inc.

By: *[Signature]*

Richard F. Garza
Texas Architectural License #15143 09/1995



AREA	SQ. FT.
1ST FLOOR	1,504
2ND FLOOR	1,036
GARAGE	420
TOTAL AREA	2,960 SQ. FT.

AREA	SQ. FT.
1ST FLOOR	1,327
2ND FLOOR	656
GARAGE	458
TOTAL AREA	2,441 SQ. FT.

AREA	SQ. FT.
1ST FLOOR	1,504
2ND FLOOR	1,036
GARAGE	420
TOTAL AREA	2,960 SQ. FT.

BUILDING II FIRST FLOOR PLAN

BUILDING II FIRST FLOOR PLAN

HERON'S NEST AT HARBOR LAKES

TEXAS

RPGA DESIGN GROUP, INC.
Architecture • Space Planning • Interiors

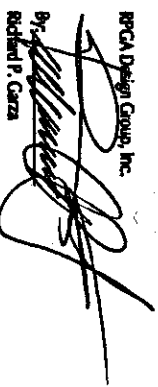
GRANBURY, TEXAS

DATE: 02/19/08
SCALE: AS SHOWN
PROJECT NO.: A4.10

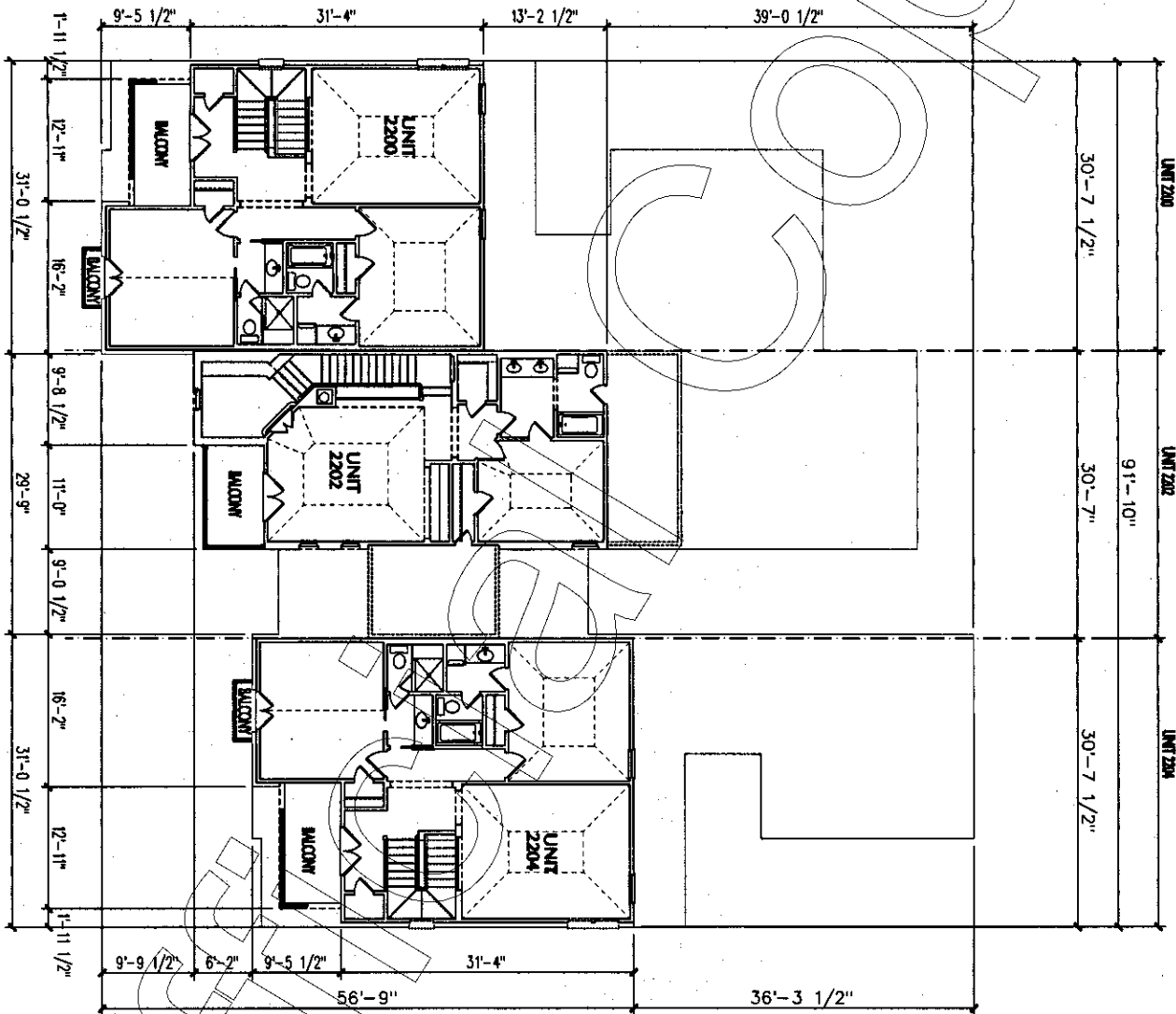
ARCHITECTS CERTIFICATE

The undersigned hereby certifies to DRICCOL PROPERTIES, LLC and HERON'S NEST AT HARBOR LAKES HOMEOWNERS ASSOCIATION, P.C. that (i) the Plans of Building I and II of Heron's Nest at Harbor Lakes, a Condominium Project, attached to this Certificate, were made by the undersigned licensed Architect; (ii) the Plans correctly show the location and dimensions of the vertical boundaries of each unit, and the unit's identifying number; and (iii) the Plans correctly show the horizontal unit boundaries and the unit's identifying number. Date: February 19, 2008

RPGA Design Group, Inc.

By: 
Richard P. Garza
(Texas Architectural License #15143 09/1995)

01 BUILDING II SECOND FLOOR PLAN



BUILDING II SECOND FLOOR PLAN

**HERON'S NEST
AT
HARBOR LAKES**

GRANBURY,

TEXAS



R P G A
DESIGN GROUP, INC.
Architecture • Space Planning • Interiors

OWNER: RPGA	DATE: 02/19/08
PROJECT NO.:	DATE FOR PERMIT:
DATE FOR PERMIT:	DATE FOR PERMIT:
SCALE FROM CONSTRUCTION:	
REVISIONS:	
<small> © 2008 RPGA Design Group, Inc. All rights reserved. This drawing is the property of RPGA Design Group, Inc. and is not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of RPGA Design Group, Inc. </small>	

PROJECT NO. _____
DATE: _____
DATE FOR PERMIT: _____
DATE FOR PERMIT: _____
SCALE FROM CONSTRUCTION: _____
REVISIONS: _____
OWNER: RPGA
DATE: 02/19/08

SHEET NO.

A-4.11

EXHIBIT "C"

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**Schedule of Initial
Ownership Percentages**

Unit #	Building #	Street Address	Total Square Ft. of Unit (incl. Garage)	Deemed Percentage of Common Element Ownership	Deemed Weight Of Vote of Unit Owner
2501	I	2501 Heron's Nest Drive	2,960	13.387%	13.387%
2503	I	2503 Heron's Nest Drive	2,441	11.040%	11.040%
2505	I	2505 Heron's Nest Drive	2,748	12.428%	12.428%
2507	I	2507 Heron's Nest Drive	2,641	11.944%	11.944%
2509	I	2509 Heron's Nest Drive	2,960	13.387%	13.387%
2200	II	2200 Aerie Court	2,960	13.387%	13.387%
2202	II	2202 Aerie Court	2,441	11.040%	11.040%
2204	II	2204 Aerie Court	2,960	13.387%	13.387%

IMPORTANT: Each Unit Owner's Ownership Percentage with respect to Ownership of the Common Elements and the weight of each Owner's Vote are expressly subject to re-allocation upon the Declarant adding additional Units to this Declaration. See Section 2.2 and 4.6 of the Declaration.

CONDOMINIUM DECLARATION

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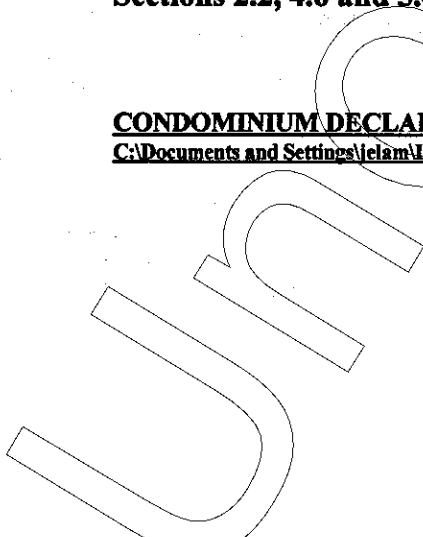
**Schedule of
Initial Allocation of Common Expenses and Initial Regular Assessments**

Unit #	Building #	Street Address	Deemed Square Ft. of Unit (incl. Garage)	Percentage of Common Expenses Until All 18 Units are Part of Declaration*	Initial Regular Assessment per month for Unit*
2501	I	2501 Heron's Nest Drive	2,960	5.966 %	\$ 248.58
2503	I	2503 Heron's Nest Drive	2,441	4.920 %	\$ 205.00
2505	I	2505 Heron's Nest Drive	2,748	5.539 %	\$ 230.79
2507	I	2507 Heron's Nest Drive	2,641	5.323 %	\$ 221.80
2509	I	2509 Heron's Nest Drive	2,960	5.966 %	\$ 248.58
2200	II	2200 Aerie Court	2,960	5.966 %	\$ 248.58
2202	II	2202 Aerie Court	2,441	4.920%	\$ 205.00
2204	II	2204 Aerie Court	2,960	5.966 %	\$ 248.58

*** IMPORTANT:** Each Assessed Party's percentage amount and share of Common Expenses is based upon Declarant's estimation and approximation of the total square footage (including garages) of all 18 Units upon completion of Buildings III and IV and the ten (10) additional Units within Buildings III and IV that Declarant must build. Declarant's estimates that the ten (10) additional Units to be constructed will have approximately 27,500 square feet (including garages) for an aggregate square footage of all eighteen (18) Units being 49,611 square feet (including garages). The exact square footage may vary and will only be known upon completion of the ten (10) additional Units. As provided for in the Declaration upon completion of the additional ten (10) Units and Declarant subjecting all ten (10) additional Units to this Declaration, each Assessed Party's percentage interest of Common Expenses and their Assessment will be adjusted based upon the actual total square footage of all eighteen (18) Units as determined by an Architect. See Sections 2.2, 4.6 and 5.4 of the Declaration.

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AT 9:35A M.

MAR 03 2008

Sally Lillard
County Clerk, Hood County, TX

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under Federal Law.
STATE OF TEXAS COUNTY OF HOOD
I hereby certify that this Instrument was filed on the date and at the time specified hereon by me and was duly RECORDED in the OFFICIAL PUBLIC RECORDS OF HOOD COUNTY TEXAS, in Volume and Page as shown hereon.



Sally Lillard
SALLY LILLARD, County Clerk
Hood County, Texas

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