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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CRIGHTON RIDGE

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

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CRIGHTON RIDGE ("Declaration") is made on the date hereinafter set forth by CENTENNIAL HOMES, INC., a Texas corporation, acting by and through its duly authorized officers, hereinafter referred to as "Declarant" (although "Declarant" has the meaning given it pursuant to the provisions of this Declaration set forth below).

WITNESSETH:

WHEREAS, Declarant is the owner of all that certain approximately 556-acre tract of land in the Joseph House Survey, Abstract No. 250, being situated in Montgomery County, Texas, and more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Initial Property"), to be subdivided (at Declarant's option) into one or more Property sections as more particularly described herein; and

WHEREAS, Declarant desires to hold, sell and convey said Initial Property, and any subsequently Annexed Property (if any), subject to the following covenants, conditions, restrictions, reservations and easements, which are for the purpose of establishing a uniform plan for the development, improvement and sale of the Initial Property, together with Annexed Property from time to time brought within the terms of this Declaration pursuant to the terms and conditions hereof (subject to the deannexation provisions herein), and to insure the preservation of such uniform plan for the benefit of both present and future owners of the residential Property lots and properties within said lands; and

WHEREAS, this Declaration grants Declarant the right and privilege with the consent of the owners of such property, to impose additional covenants, conditions and restrictions on particular portions of the real property subject to this Declaration and to designate separate portions of the Property as separate "Neighborhoods" as defined herein.

NOW, THEREFORE, Declarant hereby adopts the following covenants, conditions, restrictions, reservations and easements which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property (hereinafter defined) and which shall be applicable to all of the Property from time to time subject hereto, and shall run with the land and title to the Property and shall bind all parties having or acquiring any right, title, or interest therein or any part thereof, their heirs or successors in title and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

1.1 "Architectural Committees" means the New Construction Committee and the Modifications Committee, and "relevant Architectural Committee" means the New Construction Committee or the Modifications Committee, whichever has jurisdiction over the matter in question.

1.2 The term "assessments" shall mean and refer to annual assessments, special assessments and Neighborhood Assessments assessable by the Association as provided in this Declaration and/or any Supplemental Declaration.

1.3 "Association" shall mean and refers to CRIGHTON RIDGE HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns. The Association has the power to collect and disburse those maintenance assessments as herein below

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described in Article VII hereof.

1.4 "**Common Area**" shall mean all real property conveyed by the Declarant to the Association from time to time within the boundaries of the Property for use for the common use or benefit of all or some of the Owners of Lots within the Property, together with any and all improvements thereon. The Common Areas may include, without limitation, land used for drainage purposes, utility services, community signage monuments, community fencing or walls, natural reserves, landscaping reserves, private streets, parks, recreational facilities, and similar uses.

1.5 "**Declarant**" shall mean and refer to CENTENNIAL HOMES, INC., a Texas corporation, its successors and its assignee designated and created as a successor Declarant as provided herein.

1.6 "**Living Unit**" shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons maintaining a common household, excluding mobile homes or other non-permanent structures.

1.7 "**Lot**" or "**Lots**" shall mean and refer to any of the single-family residential lots from time to time reflected on any recorded Plat of any portion of the Property; provided, however, the term "Lot" shall not include streets, easements, nor the property designated on the plat as landscape, drainage, scenic or other types of non-residential reserves, subject to the restrictions on platting and replatting as herein set forth. "Lot" shall also include building sites for the construction of one Living Unit structures resulting from consolidation of separately Platted Lots pursuant hereto.

1.8 "**Member**" shall mean and refer to every person or entity who holds membership in the Association.

1.9 "**Modifications Committee**" shall mean and refer to the committee by that name created by the Board of Directors of the Association to exercise exclusive jurisdiction over the modifications, additions, or alterations made on or to existing Living Units or other improvements on Lots as provided in Article 3.3 hereof.

1.10 "**Neighborhood**" shall mean and refer to any separately designated development area of the Properties comprised of various types of housing, initially or by supplement or amendment made subject to this Declaration and designated as a Neighborhood in accordance with the terms hereof. If separate Neighborhood status is desired, the Declarant shall designate in a Supplemental Declaration that the particular portion of the Property shall constitute a separate Neighborhood for purposes of this Declaration. In the absence of specific designation by Declarant of separate Neighborhood status for particular Property indicating a different Neighborhood status or identity, all Property subject to or made subject to this Declaration shall be considered a part of the same Neighborhood to be called "Crighton Ridge Section One."

1.11 "**Neighborhood Assessments**" shall mean and refer to assessments levied by the Association as provided for in Article 7.8 hereof, or required by the terms of a Supplemental Declaration, being those incurred for purposes of promoting the recreation, health, safety, common benefit and enjoyment of only the Owners and Occupants of the Neighborhood against which the specific Neighborhood Assessment is levied, and/or of maintaining the properties within a given Neighborhood, and shall include Special Neighborhood Assessments and General Neighborhood Assessments as defined herein.

1.12 "**New Construction Committee**" shall mean and refer to the committee by that name created by the Declarant pursuant to Section 3.1 of this Declaration to exercise exclusive jurisdiction over all original construction of Living Units and related improvements on Lots as provided herein.

1.13 "**Owner**" shall mean and refer to the record owner of a fee simple title to any Lot which is a part of the Property, including owners that have entered into contracts of sale to sell their lots (but which sale has not been consummated), but excluding those having such interest merely as security for the performance of any obligation.

1.14 "**Plats**" shall mean and refer to all Property plats from time to time filed of record by Declarant (or with Declarant's or the Association's approval as and when herein required) in the Map or Plat Records of Montgomery County, Texas, with respect to Properties covered by this Declaration, as the same may be amended in accordance with the terms hereof.

1.15 "**Property**" or the "**Properties**" shall mean and refer to the Initial Property described in the Recitals hereof, together with such additional lands as and when they are from time to time (if ever) made subject to this Declaration pursuant to the annexation provisions hereof, less any land deleted from the Property pursuant to the deannexation provisions of this Declaration. All of the Property may sometimes be commonly known and referred to as "Crighton Ridge."

1.16. "**Supplemental Declaration**" shall mean and refer to (i) any declaration of supplemental restrictions filed of record by Declarant, its successors or assigns, imposing more stringent or detailed restrictions or additional restrictions on or with respect to one or more Neighborhoods within the Property, (ii) any supplemental declaration of annexation executed and filed of record by Declarant, its successors or assigns, bringing additional property within the scheme of this Declaration under the authority provided in the Declaration, and (iii) any supplemental declaration executed and filed of record by Declarant, its successors or assigns, to accomplish both of the foregoing. References herein (whether specific or general) to provisions set forth in "all (any) Supplemental Declarations" shall be deemed to relate to the Supplemental Declaration(s) which is or are applicable to the portions of the Property being referenced.

1.17 "**Water Plant**" shall mean and refer to the land within the Property used for construction and maintenance of a water well and/or water treatment plant for supply of water service to the Property.

## **ARTICLE II. EASEMENTS AND UTILITIES**

2.1 **Reservation of Easements.** All Lots shall be and are subject to certain easements over and across portions of each Lot as shown by the Plats recorded from time to time, and any easements from time to time granted by Declarant to the public or third parties in separate instruments or reserved to Declarant in any deed. The easements are deemed appropriate or necessary for the purpose of installing, using and maintaining public utilities and/or equipment necessary for the performance of any public, quasi-public or private utility service or function. The easements include the right of access for the purpose of further construction and maintenance. The right of access shall include the right, without liability on the part of the Declarant, owners or operators of such utilities, to remove any obstructions on said easements which in their opinions may interfere with installation or operation of said utility. The easements are for the general benefit of the Property and the Lot Owners and are reserved and created in favor of all utility companies serving the Property.

2.2 **Rights in Utility Assets.** The title conveyed by Declarant to any Lot or Lots shall not in any event be held or construed to include the title to any instrumentality constructed or placed by Developer or any utility company, whether public or private, along any of streets or easements of the Property for the purpose of providing water, gas, storm sewer, electric power, telephone or other communications or any other utility, to serve any portion of the Property. The right to sell or lease such lines, utilities and appurtenances to any municipality or other governmental agency or to any public or private service company or to any other party, is hereby expressly reserved, but not exclusively, in Developer, its assigns and successors.

2.3 **Sanitary Systems.** All water-served facilities on each Lot in the Property such as toilets, kitchens, lavatories, tubs, showers, dishwashers, washers, and sinks, shall be connected to the Owner's private sanitary system in compliance with state and county health regulations. It shall be the sole responsibility of the Owner to construct and maintain on each Lot owned a sanitary system and to bear all costs connected therewith. All sanitary systems shall be "on-site sewage facilities" approved by the Texas Natural Resource Conservation Commission and by the Architectural Control Committee prior to installation, and the installer shall provide a two (2) year maintenance agreement as part of the cost of installation. Each Owner shall pay a reasonable periodic fee, as determined by the Association, for inspection/maintenance of the sanitary system on each Lot after the initial two (2) year maintenance provided by the installer.

2.4 **Water System.** Declarant or some other contract water supplier authorized by Declarant shall cause to be constructed a water supply, treatment and distribution system for the purpose of providing water to the residents of the Property.

2.5 **Natural Reserve Easement.** Declarant has caused a scenic/natural reserve easement to be dedicated by Exxon Corporation in favor of the owners from time to time of the land and any property owners association with jurisdiction over such land, and has dedicated a scenic/natural reserve easement in favor of the owners from time to time of certain adjacent or nearby lands on property owned by Declarant adjacent to Crighton Road (collectively, the "Natural Reserve Easement"), all as more particularly described in a Restrictions Agreement dated March 20, 1997 (the "Exxon Restrictions"), filed for record under Clerk's File No. 9716375 of the Real Property Records of Montgomery County, Texas. The Natural Reserve Easement area owned by Declarant has been or will be conveyed to the Association, for its maintenance and preservation in accordance with the Exxon Restrictions, and the Association is hereby granted co-equal rights with Declarant to enforce the Exxon Restrictions (including as they affect the Natural Reserve Easement areas from time to time owned or controlled by others).

2.6 **Drainage and Flowage Easements.** On any Lot that is partially located in the 100 year flood plain, other than Lots owned by Declarant, the portion of the Lot located within the 100-year flood plain is reserved as an easement in favor of the Association for drainage and water flowage purposes, and no building, structure or improvement of any kind shall be constructed or installed in such reserved easement areas. In addition, each Lot Owner (other than Declarant) agrees that his Lot is subject to and is hereby impressed with an easement allowing natural drainage flow across such Owner's Lot from adjacent Lots, streets and Common Areas, but such natural flow drainage easement shall not (i) impede such Owner in building a Living Unit or other Architectural Committee-approved improvements on such Owner's Lot provided that the grade and elevation of such Owner's Lot are not materially altered by fill or berming except for the actual slabs of the Living Unit and related structures, or (ii) constitute permission for any adjacent Lot Owner to install or place structures, berming or other fill on its Lot in a manner that results in (A) the focusing or concentration of water flow in a materially unnatural manner so as to cause material erosion or damage to the land or improvements on its neighbor's Lot, or (B) the collection of water on his neighbor's Lot in a manner that would not have been the case prior to the making of such alterations on such adjacent Lot.

2.7. **Audio and Video.** In the event that audio and video communication services and utilities are made available to any said Lots, pursuant to an agreement entered into by Declarant or the Association, in the form of an underground coaxial, fiber optic or other type of cable system, the company furnishing such services and facilities shall have a two foot (2') wide easement along and centered on the underground wire or cable when and as installed by said company from the utility easement nearest to the point of connection on the permanent improvement or structure constructed, or to be constructed upon said Lot, and in a direct line from said nearest utility easement to said point of connection.

2.8 **Electric Distribution System.** An electric distribution system will be installed within the boundaries of the Properties pursuant to one or more agreements for electric service to be executed and recorded by Declarant and the relevant utility. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three-phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes and such other appurtenances as shall be necessary to make electrical service available to the boundary of each Lot. The Owner of each occupied or improved Lot shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of the local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the electric company's metering on the exterior of the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service (the "**Electric Company**") shall make the necessary connections at said point of attachment and at the meter. Declarant has granted or will grant either by designation on the Plat(s) or by separate instrument, necessary easements to the Electric Company providing for the installation, maintenance and operation of its electric distribution system and has also granted or will grant to the various homeowners reciprocal easements providing

for access to the area occupied by and centered on the service wires of the various Owners to permit installation, repair and maintenance of each Owner's owned and installed service wires, but the Declarant has not responsibility for the construction of any electrical service facilities. In addition, the Owner of each Lot containing improvements shall, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the Electric Company) for the location and installation of the meter of such Electric Company for each Living Unit or Commercial Unit involved.

### **ARTICLE III. ARCHITECTURAL COMMITTEES**

3.1 **New Construction Committee: Tenure.** The Declarant shall initially appoint a New Construction Committee, consisting of not less than three (3) members, who need not be Members of the Association. The persons serving on the New Construction Committee, or their successors, shall serve until such time as all Lots subject to the jurisdiction of the Association shall have completed Living Units constructed thereon, at which time the New Construction Committee shall resign and thereafter its duties shall be fulfilled and its powers exercised by the Board of Directors of the Association. In the event undeveloped land is annexed into the Association after resignation of the original New Construction Committee other than land owned by Declarant, the Board of Directors may appoint a replacement New Construction Committee to act with the authority and purpose of the original New Construction Committee with respect to new construction, for such a term as the Board may designate, and subject to the Board's continuing right to remove members thereof and fill vacancies in such Committee. In the event undeveloped land owned by Declarant is annexed into the Association after resignation of the original New Construction Committee, Declarant shall be empowered to appoint a replacement New Construction Committee to act with the authority and purpose of the original New Construction Committee with respect to new construction, for such a term not to exceed ten (10) years, as Declarant may designate, and subject to the Declarant's continuing right to remove members thereof and fill vacancies in such reconstituted New Construction Committee. In the event of the death or resignation of any person serving on the New Construction Committee, the remaining person(s) serving on the New Construction Committee shall designate a successor, or successors (unless same occurs during the Declarant control period specified in Section 3.2 hereof, in which event Declarant shall make such appointment), who shall have all of the authority and power of his or their predecessor(s). A majority of the New Construction Committee may from time to time designate someone serving on such Committee to act for it as the Designated Representative. No person serving on the New Construction Committee shall be entitled to compensation for services performed pursuant to this Article III. However, the New Construction Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the New Construction Committee in carrying out its duties hereunder, and the Association shall pay such consultants for such services as they render to such Committee.

3.2 **Rights of the New Construction Committee.** The Declarant reserves the right to control and direct the New Construction Committee (including the making of all appointments thereto and removing any member thereof) for a period of fifteen (15) years from the date of the recording of this initial Declaration. At the time when future properties are annexed into this Declaration and the jurisdiction of the Association, if ever, the term of the members of the New Construction Committee will extend no less than ten (10) years from the date of the recordation of the annexation document (i.e., the Supplemental Declaration), and Declarant's control of the New Construction Committee shall continue throughout that extended term.

Should the Declarant decide to relinquish control of the New Construction Committee prior to the expiration of the control period stated above, it may do so by notifying the Board of Directors of the Association in writing thereof and causing all its members to resign with a minimum of thirty (30) days prior written notice to the Board.

The New Construction Committee shall have the right to develop, adopt and from time to time revise "Architectural Control Guidelines" (herein so called) for use in the review and approval of construction and improvement projects. No Owner shall be required, in connection with its initial construction of improvements on its Lot, to comply with amendments or supplements to the Architectural Control Guidelines first published after the date of the New Construction Committee's

approval of that Owner's plans and specifications for its initial improvements; provided, however, that in the event the Owner alters or modifies its plans in any manner so as to affect any improvements which are visible from the exterior of the building, or requires a variance not previously sought, then, upon the Owner's request for the New Construction Committee's approval of such change or for such variance, the New Construction Committee may require that the Owner cause its plans and specifications to be revised so as to be in full compliance with the revised Architectural Control Guidelines as then in existence as amended.

**3.3 Modifications Committee.** The Board of Directors is authorized to establish a Modifications Committee whose responsibility it will be to set standards, review and act upon all proposed modifications of improvements to those Lots where the Living Units have been constructed and sold and are owned by someone other than the Declarant, its successors or assigns, or a Builder. The Modifications Committee will be comprised of no fewer than three (3) members with at least two (2) members required to be Members of the Association. The Modifications Committee will be governed by the Board of Directors and shall adhere to all the provisions set forth in this Declaration.

The Modifications Committee shall promulgate standards and procedures governing its area of responsibility and practice, and may adopt separate standards and procedures governing modifications and alterations on Residential Lots. In addition thereto, the following requirements shall be adhered to: plans and specifications showing the nature, kind, shape, color, size, materials and location of such modifications, additions or alterations, shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing structures on and off the Lot in question, and as to location in relation to surrounding structures, topography and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel or to paint or otherwise alter the interior of a Living Unit.

**3.4 Non-Liability of Members.** The Declarant, the Architectural Committees and their respective members shall be free from liability for actions within the scope of the Architectural Committees' functions, unless gross negligence is proven. All Owners and/or the Association hereby expressly waive and relinquish any and all claims against the Declarant, Architectural Committees or their respective members, except for claims of gross negligence.

**3.5 Required Approval of Plans.** No building or any other structure or improvement shall be erected, placed or altered on any Lot until the plans and specifications showing all aspects of the structures and improvements shall have been approved in writing by the relevant Architectural Committee as to: (i) quality of workmanship and materials; (ii) harmony of external design with existing structures and improvements in the neighborhood or Declarant's general development plan; (iii) location of structures and improvements with respect to topography and finish grade elevation, including plan regarding removal of trees; and (iv) compliance with the Restrictions contained in this Declaration.

**3.6 Approval Process.** All final plans and specifications must be submitted in duplicate to the relevant Architectural Committee for approval prior to start of any construction. At such time as the plans and specifications meet the approval of the relevant Architectural Committee, one complete set of such plans and specifications will be retained by the Architectural Committee and the other complete set will be marked "approved", signed by a majority of the Architectural Committee and returned to the Lot Owner. Any modification or change to the approved set of plans and specifications prior to commencement of construction must be approved in writing by the relevant Architectural Committee. In the event construction is not in accordance with the approved plans and specifications and/or this Declaration, the Owner and/or builder agree and covenant to alter such construction in order to conform to all requirements of this Declaration and the relevant Architectural Committee. In the event the plans and specifications are properly submitted to the relevant Architectural Committee for its review, and the Architectural Committee, or its designated representative, fails to either approve or disapprove such plans and specifications within thirty (30) days after being submitted to such Architectural Committee, and if no suit to enjoin the construction is commenced prior to completion of such construction, then approval shall be automatic and presumed if, after expiration of such (30) period, the Owner notifies the relevant Architectural Committee in writing of such inaction and no action is taken by such Architectural Committee within (10) days following its receipt of such notice.

**3.7 Variances.** The Architectural Committee shall have the absolute right and

authority to waive, vary or modify the requirements and restrictions contained in this Declaration if, in the opinion of the Architectural Committee, such action is to the advantage or benefit of the Association and its Members or, in the case of a change in circumstances arising from either advances in technology or other unforeseen developments, resulting in the need for such action in order to accomplish the original purposes of this Declaration. All requests for and approvals of requests for variances shall be in writing. The granting of such variance shall be signed by a majority of the relevant Architectural Committee.

**ARTICLE IV.  
USE RESTRICTIONS**

4.1 **Residential Activity/Use.** Each Lot in the Property shall be used only for the construction of a single Living Unit (i.e., a detached, permanent single-family residential structure), each for use only as a residence for a single family of individuals related by blood or marriage, or maintaining a common household as husband and wife, or by co-Owners (excluding cooperative-type ownership if being used to avoid the intent of this restriction), and single-family residential-related improvements and amenities not intended for occupancy. Under no circumstances shall mobile homes, trailers or other non-permanent residential structures be erected or maintained on a Lot, except for construction trailers during a reasonable construction period for the initial construction of a Living Unit on a Lot.

(a) Except as expressly permitted under Section 4.2, no part of any Lot shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purposes, nor (subject to constraints of applicable law) for any commercial use of a residential nature (e.g., as a boarding house, day-care facility, half-way house, nursing home, rehabilitation or therapy facility, church or place of religious assembly, etc.). Except as expressly provided in Section 4.2, no activity, whether for profit or not, which is not directly related to single-family residential use, shall be carried on upon any Lot, except on those Lots which may be designated by the Declarant for use as sales offices, construction offices and storage facilities for a period of time commensurate with home construction and sales within the Property.

(b) Notwithstanding the foregoing, however, certain Lots may be designated by Declarant for use as sales offices, construction offices, and storage facilities for a period of time commensurate with home construction and sales within the Property. Except for this temporary use of selected Lots, no noxious or offensive activity of any sort shall be permitted, nor shall anything be done, on any portion of the Properties which may be or become an annoyance or nuisance to the Owners or users of the Property.

(c) No Living Unit shall be occupied by permanent residents numbering more than two (2) for each room designated as a "bedroom" or "alternate bedroom" on the Plans and Specifications for such Living Unit approved by the relevant Architectural Committee. A person shall be conclusively deemed a "permanent resident" if the person is expected to continue in occupancy on a regular basis for in excess of six months, or if the person does not own or have under bona fide lease in his or her name any other lawful place of abode (unless the person is a legal dependent of a person who owns or leases the Living Unit).

Use in compliance with this Section 4.1 is herein called "Single-Family Residential Use."

4.2 **Limited Exception for Home Occupation Use.** Notwithstanding the provisions of Section 4.1, any Owner or Occupant of a Lot may engage in a home occupation on a full or part time basis upon the Lot if and only if (A) such business is transacted or conducted (insofar as activity on or within the Residential Lot is concerned) entirely through telephone communication (including facsimile transmissions, computer modems and similar communications equipment), (B) there is no visible manifestation exterior to the Living Unit structure that would indicate that such home occupation is being conducted in the Living Unit, and (C) the home occupation usage complies with the following other specific restrictions:

(i) No employees of the home occupation (other than the permitted occupant(s) or permitted resident(s) conducting the business) shall be permitted on the Lot in connection with the conduct of the home occupation;

(ii) The home occupation shall not permit customers to visit the Lot in connection with the business being conducted thereon;

(iii) No inventory of the home occupation (other than samples and hand-crafted products as permitted by Section 4.1(vi), below) shall be stored on the Lot or within the Living Unit;

(iv) The home occupation use shall not generate any noise that would be in excess of or materially different in nature from that normally associated with a strictly single-family residential use;

(v) The home occupation use shall not cause there to be traffic generated on or in the vicinity of the Lot in excess of that normally associated with a strictly single-family residential use;

(vi) There shall be no assembly, fabrication or manufacturing process carried out on the Lot in connection with such home occupation, except that the Owner or Occupant may craft handmade goods if done without use of equipment that is not normally considered to be typical "household" or "artist" equipment (e.g., knitting, painting and craftmaking would be permitted, but woodshops, metalshops, computer assembly and the like would not);

(vii) There shall be no shipping of goods, parts, products, equipment, inventory or materials to or from the Lot in connection with such home occupation (except removal of products crafted on the Lot as permitted in Section 4.1(vi), above, for sale at another location); and

(viii) There shall be absolutely no signage or advertisement of the home occupation located on the Lot, whether permanent or temporary in nature.

**4.3 General and Environmental Nuisance.** Nothing shall be done on any Lot which may create environmental contamination or which may be or become an annoyance, nuisance, or environmental hazard to other Owners in the Property.

**4.4 Animals.** No horses, cattle, cows, swine, sheep, goats, poultry or livestock of any kind, other than pets of reasonable kind and number ordinarily kept in residential properties, may be kept on any part of the Property. No pets may be kept or bred for commercial purposes nor shall they be allowed to run at large within the Property. No pet or animal boarding operation shall be conducted on any Lot or within any Living Unit. Any nuisance created due to an unreasonable number or type of pet or pets, or by virtue of the pet or pets' actions or conduct, shall subject the Owner to fines, actions at law and/or injunctive proceedings.

**4.5 Construction Period Activities of Declarant and Builders.** Notwithstanding any provisions in this instrument contained to the contrary, but subject to any restrictions and conditions imposed in any sale contract between Declarant and any builder, it shall be expressly permissible for the general contractor constructing improvements to maintain during the period of construction, upon such portion of the premises as builder deems necessary, such facilities as may be reasonably required, convenient or incidental to the construction including, but not without limitation, a business office, storage area, construction yards, signs, and sales office, provided same are removed within sixty (60) days after completion of construction and sale. All exterior construction of the primary residential structure, garage, porches, and any other appurtenances or appendages of every kind on any Lot, and all interior construction including, but not limited to, all electrical outlets in place and functional, all plumbing fixtures installed and operational, including being connected to water and sewer lines, all cabinet work completed, all interior walls, ceilings, and doors completed and covered by paint, wallpaper, paneling or the like, and all floors covered by wood, carpet, tile or other similar floor covering, shall be completed not later than twelve (12) months following the date on which foundation forms are set. During the period that Living Units are being constructed or Lots remain vacant in the Property pending construction thereon (the "Construction Period"), a builder (including Declarant) may maintain and operate such model homes as the Declarant may permit, in such manner as the Declarant may permit, for purposes of marketing homes in the Property. In addition, during the Construction Period (whether or not Declarant is actively involved in construction of any Living Units in the Property), Declarant may maintain in and upon Lots owned by it within the Property, and in and upon Common Areas of the Property not yet conveyed to the Association, such signage and

commercial activities relating to the marketing, construction, design and promotion of development within the Property as Declarant may determine to be necessary or appropriate.

4.6 **Reconstruction in Event of Casualty.** if all or any portion of the improvements are damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to reconstruct such improvements in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within six (6) months after the damage occurs and shall be completed within six (6) months from date reconstruction was commenced. Due to the impossibility of being able to ascertain the exact amount of actual damages, Owner's failure to comply herewith shall result in liquidated damages being due to the Association in the amount of \$100.00 for each day of noncompliance. No construction trailer shall be permitted on a Lot during reconstruction following fire or other casualty damage.

4.7 **Detached Buildings.** No garage or outbuilding (i.e., any building or structure not attached to and architecturally integrated into the main Living Unit) may be used for human occupancy or rental purposes; provided, however, that occupiable quarters above detached garages may be constructed and inhabited by no more than two persons. No permitted outbuilding, if any, shall exceed twelve feet (12') in height.

4.8 **Garbage Disposal and Dumping.** Garbage shall be kept in sanitary containers and such containers shall be kept in a clean and sanitary condition. Underground garbage can holders or other devices (designed to prevent unsightly cans being seen from the street) must be approved by the Architectural Committee; backdoor, off-the-street garbage and trash pick-up service may be provided for each Lot in the Property by the Association, but if the Association does not elect to do so then trash disposal shall be the responsibility of each Lot Owner or occupant on at least a weekly basis. Other than during the day of trash pick-up, no trash cans or garbage cans shall at any time or times be permitted to remain on the street or in front of the lots forward of the building line so that same may be seen by a person using the street in the Property. No Lot shall be used or maintained as a dumping ground for trash, and no dumpsters shall be placed anywhere in the Property, including the public streets. By a majority vote of the Members of the Association a regular garbage pick-up service may be contracted for; provided, however, in such event, each Member shall pay its pro-rata share.

4.9 **Mineral Activity.** No Mineral exploration, development, production, storage, treatment, or operations of any kind shall be permitted upon any Lot.

4.10 **Storage of Automobiles, Boats, Trailers, Construction Equipment and Other Vehicles.** No trailer, boat, travel trailer, inoperative automobiles, campers, or vehicles of any kind shall be parked or stored on a Lot except behind the main dwelling structure. Storage of such items and vehicles in such permitted locations must be screened from public view, either within the garage or behind a fence which entirely encloses such items or vehicles. Under no circumstances or conditions shall backhoes, tractors, bulldozers and other construction vehicles or equipment, except temporary storage of such equipment during the initial construction or subsequent reconstruction of a Living Unit on that Lot, be stored on a Lot.

4.11 **Signs.** No sign of any kind shall be visible to the public view on any Lot except: (i) one professional sign of not more than five (5) square feet advertising the property for sale or signs used by a homebuilder to advertise the property during the construction and initial sales period (the style of such "for sale" signage by a private Owner to be subject to approval of the Association); and (ii) two (2) signs shall be allowed for each model home, such signs to be in front of said model home.

4.12 **Upkeep.** The Owner of each Lot shall be responsible for the proper maintenance and upkeep of the Lot and improvements at all times. The Owner shall keep any weeds neatly mowed, and shall not permit the accumulation of trash, rubbish, deteriorating improvements or other unsightly articles on said Lot or the abutting easements or streets. The area between the pavement and the Lot line (which includes the roadside drainage ditch) shall also be kept and maintained by the Owner of the abutting Lot. If the Owner of any Lot does not comply with these terms, then the Association is authorized to have such Lot cleaned and maintained in order to comply with these provisions for the account of the Owner of said Lot, and the paying party shall

be entitled to reimbursement of the amount of any reasonable expenses so incurred from the Owner of the Lot for whose account and on whose Lot such maintenance and upkeep was performed.

**ARTICLE V.**  
**BUILDING RESTRICTIONS**

5.1 **Single Family Residential Homes.** The main building on each Lot shall be constructed as a Living Unit as defined herein (i.e., a detached, single-family residential structure).

5.2 **Building Lines.** No building or other improvements shall be located on any Lot nearer than seventy (70) feet to the front Lot line or nearer to the street than the minimum building setback line shown on the recorded Plat, whichever is greater. No building shall be located nearer than twenty-five (25) feet to any interior Lot line. For the purposes of this covenant or restriction, eaves, steps and unroofed terraces shall not be considered as part of a Living Unit, provided, however, that this shall not be construed to permit any portion of the construction on a Lot to encroach upon another Lot.

5.3 **Detached Building Locations.** Any garage or garage with quarters, or any permitted outbuilding of any kind detached from the main building, shall be located at least one hundred thirty (130) feet from the front property line, unless prior written approval of a variance is given by the relevant Architectural Committee.

5.4 **Building Orientation.** The main residential building on each Lot shall be constructed to face the street upon which such Lot fronts, except that the New Construction Committee may, in its discretion, authorize the construction of improvements on corner Lots facing either diagonally across such Lot or facing the street abutting the longer dimension of such Lot.

5.5 **Walls, Fences, and Hedges.** No wall, fence or hedge shall be erected or maintained nearer to the front Lot line than the front building line on such Lot, nor on corner Lots nearer to the side Lot line than the building setback line parallel to the side street. No side or rear fence, wall or hedge shall be more than eight (8) feet in height. No chain link fence type construction will be permitted on any Lot save and except for pet enclosures of reasonable size not visible from the street. Any wall, fence or hedge erected on a Lot by Developer shall pass ownership with title to the Lot and it shall be Owner's responsibility to maintain said wall, fence or hedge thereafter. The minimum acceptable quality for the fence is vertical wood that is free of large or loose knots and splits with 4" X 4" posts set 2' in concrete on 7' centers. Only the good side (no bracing or 2X4's visible, etc.) of fences shall face streets or be in public view. Any fence built on lots adjacent to or fronting on the drainage easement on the westerly boundary of the Property shall be built on the east side of the easement and not within the easement. All fences must be approved by the relevant Architectural Committee prior to commencement of construction.

5.6 **Garages.** Each Lot must have an automobile garage, which garage shall be capable of storing no less than two (2) conventional size automobiles, unless otherwise approved by the New Construction Committee. Detached garages shall be no more than one story in height unless otherwise approved by the relevant Architectural Committee. Any garage, whether detached or attached, shall not exceed the height of the main dwelling. No carports shall be permitted on any Lot within the Properties, except that porte cochere-type structures that are attached and architecturally integrated into a Living Unit may be approved by the relevant Architectural Committee on a case-by-case basis.

5.7 **Height and Floor Area Limitations.** No building shall be permitted on any Lot unless it complies with the following:

- (a) The maximum allowable height of any Living Unit shall not exceed two and one-half (2-½) stories. For purposes hereof, the one-half (½)-story of a two and one-half story Living Unit must be contained within the peaked roof line of the Living Unit, subject only to window protrusions from the roof.

- (b) The living area of the main dwelling of any one-story Living Unit, exclusive of porches, garages (whether attached or detached), patios, breezeways or other appendages, shall not be less than two thousand (2,000) square feet.
- (c) The living area of any 2 or 2 1/2 story Living Unit, exclusive of porches, garages (whether attached or detached), patios or other appendages, shall not be less than two thousand five hundred (2,500) square feet.

5.8 **Materials.** All materials must be new materials and no second-hand or used material shall be utilized in the construction of improvements on any Lot.

5.9 **New Construction.** All improvements of any nature placed on any Lot shall be newly erected on said Lot and no second-hand or used buildings, or other improvements" shall be moved onto any of said Lots.

5.10 **Roof.** The pitch of the roof of each main building and all outbuildings, either attached or detached, is subject to prior approval of the Architectural Committee. Roofs shall be of composition material (at least 240 pound weight) and comparable in color to wood shingles. Unless prior written approval is given by the Architectural Committee, metal roofs are prohibited.

5.11 **Aerials.** No radio, telephone, television, satellite dish, or other aerial communication antennae or wires shall be maintained on any portion of any Lot forward of the front wall line of the main dwelling constructed on such Lot.

5.12 **Sanitary Sewage Systems.** No sanitary sewerage system shall be permitted to be constructed or installed on any Lot except as permitted by Section 2.3 of this Declaration, as approved by the relevant Architectural Committee.

5.13 **Clothesline.** No clothesline may be visible from the street. Such clotheslines must be enclosed by a hedge or other type of screening enclosure as may be approved by the Architectural Committee as a part of the plans for the improvements to be located on the Lot.

5.14 **Screening.** All service and sanitation facilities must be enclosed within fences, walls, and/or landscaping and shall not be visible from any street fronting the Lot. The relevant Architectural Committee may, in its reasonable discretion, permit Owners to place additional lattice-work screening or other decorative screening on the subject Lots for the purpose of screening public view of hot-tubs, sun bathing areas, servicing equipment, and similar items.

5.15 **Sight Distances at Intersections.** No fence, wall, or landscaping (other than that which naturally exists) which obstructs sight line at elevation between two (2) and six (6) feet above the streets shall be placed or permitted to remain on any corner Lot area within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded corner, from the intersection of the street property line extended to intersect. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway pavement. No trees shall be permitted to remain within the above sight line of each intersection unless the foliage line is maintained at sufficient height to prevent the obstruction of the sight line.

5.16 **Swimming Pool Equipment.** All pool or pool service equipment shall be located either (a) in a side yard between the front and rear boundaries of the main dwelling, or (b) in the rear yard directly abutting and adjacent to the main dwelling. In addition, these improvements and related equipment must be visually screened by a solid masonry wall or wood fence of an Architectural Committee-approved type and construction. All screening walls shall be fully landscaped with landscaping of a type, quality and quantity approved by the relevant Architectural Committee.

5.17 **Tennis Courts.** No tennis court lighting shall be constructed or placed upon any Lot, unless otherwise approved by the relevant Architectural Committee.

5.18 **Toilets.** No outdoor toilets shall be placed on any Lot except during construction of main structure and related improvements.

5.19 **Window or Wall Units.** No window or wall type air conditioners shall be permitted to be used, placed or maintained on or in any building or in any part of the Property, without the prior written consent of the Architectural Committee; however, during the construction phase of the main buildings and improvements, they shall be permitted on temporary buildings.

5.20 **Composite Building Site.** Any Owner of adjoining Lots or portion thereof, may consolidate such Lots or portions thereof into one single-family residence building site, in which case setback lines shall be measured from the resulting side property lines rather than from the Lot lines shown on the recorded plat and such site shall be considered a Lot for all purposes hereof.

Any proposed consolidated building site must be approved by the New Construction Committee (while it exists) or the Board (after the New Construction Committee is dissolved) before the same shall constitute a consolidated building site for purposes hereof.

5.21 **Mailboxes.** All mailboxes shall be standardized and consistent throughout the Property, and shall be constructed out of material that is harmonious and consistent with the overall architectural and aesthetic themes of the Property, which standard shall be established by the initial Architectural Committee.

5.22 **Lot Drainage and Landscaping.** No Owner shall design, construct, alter or in anyway cause the surface water of his or another lot to drain or adversely affect another Lot or Lots except for normal water flow as contemplated in Section 2.6 hereof. Any landscaping or other activities by any Owner which results or may result in an increase of surface water on another's Lot is prohibited and may be enjoined by the Architectural Committee or other Owners.

5.23 **Tree Removal.** No trees over three (3) inches in diameter shall be cut on any Lot without prior approval of the relevant Architectural Committee; provided, however, that the Architectural Committee shall permit larger trees to be cut as is reasonably necessary to enable an Owner or Builder to construct a Living Unit and related (permitted) single-family residential-related improvements on such Lot.

5.24 **Water Wells Prohibited.** No water well shall be constructed or installed on any Lot within the Property, other than on sites designated as water well or water plant sites on the Plats.

**ARTICLE VI.  
CRIGHTON RIDGE HOMEOWNERS ASSOCIATION, INC.;**  
**POWERS, MEMBERSHIP AND VOTING RIGHTS**

6.1 **The Association.** The Declarant (or its officers) has chartered or shall charter a corporation organized under the Texas Non-Profit Corporation Act to be known as **CRIGHTON RIDGE HOMEOWNERS ASSOCIATION, INC.**, or such other name as may be designated at the time of its incorporation in compliance with applicable law, which incorporation shall be prior to the conveyance of the first Lot to an Owner other than Declarant. The Association shall act through its Board of Directors and shall have all powers enumerated herein, as well as those contained in the bylaws and those provided by law. The Board shall be comprised of at least (3) individuals and shall serve two (2) year staggered terms so that a minimum of one-third of the Board members' terms will expire each year; provided, however, the initial Board shall be comprised of three (3) individuals appointed by Declarant and such Board members shall serve until the earlier of the first meeting of Members or their removal and replacement by Declarant. It is not necessary that the directors be Members of the Association.

6.2 **Membership.** Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

6.3 **Classes of Voting Members.** The Association shall have two classes of voting membership:

- (a) **Class A:** Class A Members shall be all of the Owners. Each Class A Member shall be entitled to one vote for each Lot owned. When more than one person holds an interest as an Owner in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Holders of future interests in a Lot, not entitled to present possession, shall not be considered as Owners for the purposes of voting hereunder.
- (b) **Class B:** The Class B Member shall be Declarant, its successors or assigns, and shall be entitled to ten (10) votes for each Lot owned and for each one-quarter acre of Property owned by it that has not yet been subdivided into residential Lots. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
  - (1) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
  - (2) on January 1, 2025.

6.4 **Annexation of Other Lands.** Other lands may hereafter be annexed into the jurisdiction of the Association in the manner described in Article IX. If annexed, the Owners of Lots in each future section or parcel of land so annexed, as well as all Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Common Properties that may become subject to the jurisdiction of the Association as a result of such annexation, and the facilities thereon, shall be obligated for the maintenance and other assessments herein, and shall be entitled to the use and benefit of the maintenance fund hereinafter set forth, provided that each future section must be impressed with and subject to the Assessments imposed hereby (and any additional Neighborhood Assessment necessitated by a higher level of services or amenities to be provided to that area as a separate "Neighborhood"). Further, such annexed sections shall be made by recorded Supplemental Declaration subject to all of the terms of this Declaration (as then amended and/or modified as herein permitted) and to the jurisdiction of the Association, with such modifications and exceptions as the Declarant or other owner of the annexed lands may stipulate in the Supplemental Declaration accepted by the Association (and accepted by Declarant during any period that Declarant owns any Property). Such additional land may be annexed in accordance with the provisions of Article IX hereof.

## **ARTICLE VII.** **ASSESSMENTS**

7.1 **Covenants for Assessments.** The Declarant, subject to certain exemptions or abatements as hereinafter provided, and each purchaser of any Lot by acceptance of deed therefor, hereby covenant and shall be deemed to covenant to pay to the Association the following: (1) annual assessments or charges as specified below; (2) special assessments for capital improvements or for repayment of funds borrowed and used in payment of capital improvements, as specified below. All of such assessments are to be fixed, established and collected by the Association from time to time as hereafter provided.

7.2 **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the comfort, health, safety, and welfare of the Owners of the Lots and for carrying out the purposes of the Association as stated in this Declaration.

7.3 **Annual Assessment.** Each Owner of a Lot or Lots (other than Declarant) shall pay to the Association an annual assessment of Three Hundred Fifty Dollars (\$350.00) per Lot during calendar year 1998 and each year thereafter until increased or decreased by the Board (approved by a vote of the Owners when and as required) in accordance with the terms of this Declaration. The annual assessments provided for herein shall commence as to all Lots in the Property on January 1, 1998, and shall continue thereafter from year to year. All Lots owned by Declarant

and all other portions of the Property owned by Declarant are exempt from the annual assessment under this Declaration during the period of time that such Lots or Properties are owned by Declarant. All Lots owned by any party other than Declarant, including, without limitation, those owned by a builder, or a building company or its affiliate, shall be assessed at the full assessment rate at all times during such Owner's ownership thereof. In the year during which a Lot is conveyed by Declarant to an Owner, the annual assessment for such Lot shall be prorated and the portion owing for the remainder of the year in question shall be collected by the Declarant at the time of sale and remitted to the Association (or, if not so collected, shall be payable by the Owner to the Association upon demand).

**7.4 Increase in Rate of Annual Assessment.** An increase in the rate of the annual assessment of up to ten percent (10%) per year may be approved by the Board without a vote of the Members. An increase in the annual assessment in excess of ten percent (10%) for any year must be approved by a majority of the eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose. Written notice of such meeting shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount, but in the event of any reduction in such assessment rate, the Board's authority for approving increases without a vote of the Members shall extend to reinstatement of such assessment reductions in addition to its 10% approval authority provided above.

**7.5 Special Assessments for Capital Improvements.** In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year and/or any subsequent years for the purpose of defraying, in whole or in part, the cost of any purchase, construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, if any, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of at least two-thirds (2/3) of the eligible votes of the membership of the Association, voting in person or by proxy at a meeting duly called for this purpose. Written notice of such meeting shall be given to all Members at least thirty (30) days in advance, but not more than sixty (60) days, and shall include notification that the purpose of the meeting includes consideration of a special assessment.

**7.6 Due Date of Assessments.** The annual assessments shall become due and payable on January 1 of each year, in advance for the coming year, and shall be considered delinquent if not paid within thirty (30) days from due date. The Board of Directors may change the due date and all Members shall be notified of such change. The due date and delinquent date of any special assessment shall be fixed in the resolution authorizing such assessment. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for certificate signed by the Owner but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

**7.7 Notice and Quorum for Meeting to Increase Rate of Assessments.** Written notice of any meeting called for the purpose of taking any action to increase the rate of assessment regarding either annual or special assessments hereinabove provided shall be mailed by first-class U.S. Mail to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies of all classes of membership entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present at any such meeting, the meeting shall be adjourned but another meeting may be called subject to the same notice requirement; however, the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum applicable in the case of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**7.8 Neighborhood Assessments.**

(a) Each Neighborhood, which is designated as such by Declarant in the Supplemental Declaration that designates such area as a separate Neighborhood and/or that brings such Property within the jurisdiction of the Association, shall be subject to additional Assessments as follows

(collectively, the "Neighborhood Assessments):

(i) Every Lot in each Neighborhood shall be subject to a Neighborhood Assessment ("General Neighborhood Assessments"), if any, as specified, authorized or contemplated in such Supplemental Declaration to defray the costs of additional services and/or amenities to be provided by the Association that primarily or exclusively benefit the Owners of Lots within that Neighborhood, and/or necessary because of such Neighborhood being a Private Street Neighborhood as defined in Article VIII hereof (except assessments to cover costs referenced in Section 8.4(e) hereof; and

(ii) Upon a vote of the Owners of eighty percent (80%) of the Lots within a Neighborhood (whether such vote is at a meeting of the Members or by written vote of the Members in the Neighborhood in question, so long as the eighty percent (80%) who voted in favor are Owners in that Neighborhood at the time the last vote counted toward the eighty percent (80%) amount is cast), such Owners may elect for their Neighborhood to have the Association provide services or amenities in excess of those being provided to all Neighborhoods and those specifically provided for in any Supplemental Declaration applicable to such Neighborhood, or upon a vote of the Owners in a Private Street Neighborhood to authorize a capital expenditure under Section 8.4(e) hereof, whereupon a Neighborhood Assessment in that particular Neighborhood shall be made as contemplated herein or therein. Neighborhood Assessments under this paragraph (ii) are called "Special Neighborhood Assessments."

(b) Upon proper election by the Owners in a Neighborhood to authorize a Special Neighborhood Assessment, all Owners in that Neighborhood shall be assessed an annual Neighborhood Assessment based on the cost of the additional services and amenities, on a uniform basis within such Neighborhood; provided, however, that Special Neighborhood Assessments made pursuant to Section 8.4(e) hereof shall be due on such schedule as is established in the authorization petition or, if not specified therein, on such schedule (including a lump sum payment) as the Association shall determine. Owners in the Neighborhood who do not vote or who vote against such Special Neighborhood Assessment shall not be exempt from such Neighborhood Assessment, whether by their election not to participate in the supplemental services or otherwise. Nothing in this Declaration prohibits the Board of Directors from levying a different Neighborhood Assessment rate to the separate Neighborhoods. General Neighborhood Assessments shall not be combined with annual assessments under Section 7.3 hereof for purposes of determining the maximum permissible annual assessment under that Section, nor separately be subject to the limitations of Section 7.3 of this Article.

(c) Following the creation of a Neighborhood Assessment specific to a particular Neighborhood in excess of the annual Assessments under Section 7.3 (whether created or authorized by Supplemental Declaration filed by Declarant or by vote of the Neighborhood Owners), the share thereof of each Owner in such Neighborhood shall be levied and collected by the Association on an annual basis in the same manner as annual assessments under Section 7.3 (except as provided for Special Neighborhood Assessments pursuant to Section 8.4(e) hereof). Any Neighborhood Assessment authorized or created in a Supplemental Declaration filed by Declarant for that Neighborhood shall commence as to each Lot in that Neighborhood when such Lot becomes owned by any Owner other than Declarant, and the first payment shall be a pro rated payment for the balance of the calendar year during which such Lot is conveyed by Declarant to another Owner, due upon invoicing by the Association. In the case of Neighborhood Assessments created or authorized by a vote of the Owners in the Neighborhood, the first Neighborhood Assessment shall be for the partial calendar year remaining after the commencement of the supplemental services. After the year of commencement of an Neighborhood Assessment with respect to a particular Lot, Neighborhood Assessments shall be payable in advance for each calendar year on the first day of January of such year.

7.9 Effect of Nonpayment of Assessments. Any delinquent assessment shall bear interest from the due date until paid at the rate of twelve percent (12%) per annum. After ten (10) days notice to the delinquent Owner, the Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the Lot involved. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

7.10 Creation of Lien and Personal Obligation for Assessments. The assessments under this Declaration (and/or any Supplemental Declaration), together with interest, costs and

reasonable attorney's fees in the event of default, shall be a charge on the Lot and shall be a continuing contract lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due.

No recitation shall be required in the deed conveying a Lot to an Owner in order for such lien to attach to such Owner's Lot, and such lien in favor of the Association shall attach, and for all purposes shall be deemed to have attached, to such Lot prior to its purchase by the Owner and prior to its attainment of homestead status in respect to the Owner, regardless of whether any assessments may be delinquent at the time of conveyance. In the event such assessments are delinquent, and in order to evidence the aforesaid assessment lien, but not in any way as a condition to the validity or attachment of said lien to secure said delinquent assessment amount, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Montgomery County, Texas. Such lien for payment of assessments shall attach with the priority set forth in this Declaration retroactively to the date of this Declaration, and may be enforced by the foreclosure of the defaulting Owner's Lot (and all improvements and fixtures thereon) by the Association pursuant to a private power of sale hereby conferred on the Association and its foreclosure agents or designees, in like manner as a mortgage of real property (presently, Section 51.001 et seq. of the Texas Property Code). The Association may also, if it so chooses, institute suit against the Owner personally obligated to pay the assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay all costs, expenses, and reasonable attorney's fees incurred by the Association in connection therewith.

**7.11 Exemption of Common Areas and Publicly Dedicated Areas.** All Common Areas of the Property and all areas of the Property from time to time constituting public streets and Property dedicated to water well or water treatment plant use or other public utility or utility district, shall be exempt from the assessments and liens security the same under this Declaration.

Furthermore, any other properties owned by Declarant, or any other association, whether or not part of or contained within any recorded map or plat filed by Declarant and whether or not adjacent or contiguous to the Property, shall not be subject to this Declaration or the assessments and liens created herein unless and until, if ever, such lands are formally annexed into this Declaration and the jurisdiction of the Association by Supplemental Declaration as herein provided.

**7.12 Subordination of the Lien to Mortgages.** The lien impressed for non-payment of the assessments provided for herein shall be subordinate to ad valorem taxes and any lien of any unpaid first-lien mortgage existing at any time upon the particular Lot involved. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer (but shall not relieve the foreclosed Owner of his or her personal liability for such sums). No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

**7.13 Declarant's Limited Assessment Liabilities.** As long as there is a Class B membership, no Lot owned by Declarant shall be subject to Assessments under this Declaration or any Supplemental Declaration and Declarant shall be responsible only for any shortfall in the accounts of the Association to carry out its critical functions contemplated hereby, but only in the event that the maximum allowed annual assessments chargeable under the provisions of Sections 7.3 and 7.4 of this Declaration, are insufficient to cover the actual costs of maintaining the Properties in accordance with the provisions of this Declaration. If financial shortfalls can be reduced before Declarant's subsidy by a reduction in excess or non-life threatening services, such as trash removal, then those services may (and, if requested by Declarant, shall) be reduced to enable the Association to operate within its budget under the constraints of the limitations of Sections 7.3 and 7.4 and with the least possible subsidy from Declarant. Declarant may require that the Board enact the maximum allowed increases under Section 7.4 hereof as a condition to the Association's right to any subsidy from Declarant hereunder. Declarant may at any time by express written instrument recorded in the Real Property Records of Montgomery

County, Texas, release its rights under this Section from and after the date of recordation thereof (or any later date specified therein), and thereafter pay only Assessments due against its Lots in the same manner and to the same extent as any other Owner. Under no circumstance shall any Property owned by Declarant and not yet subdivided into residential Lots be subject to any assessments under the terms of this Declaration.

## ARTICLE VIII

### PRIVATE STREET NEIGHBORHOODS

8.1. **Private Street Neighborhoods Defined.** If any Neighborhood in the Property is platted to contain private streets (the area included in such subdivision plat which are dependent on such private streets for access to a public right-of-way being herein called a "**Private Street Neighborhood**"), then the provisions of this Article V shall control the use, maintenance, repair and replacement of such streets and related gate access, guard house and similar facilities in such Private Street Neighborhood. Notwithstanding the foregoing, no Lot included in any such subdivision plat containing private streets shall constitute part of the Private Street Neighborhood unless such Lot has no public street access other than by access across the Private Street Easement(s) in that platted subdivision.

8.2. **Definitions.** The following terms shall have the following definitions:

(a) "**Private Street**" shall mean the private street and private drive areas as described in the Plat of such Neighborhood, and any related curbs, gutters, lighting standards and fixtures and/or other facilities, including without limitation, any Subdivision Access Facilities constructed by Declarant or the Association within the Private Street Easement.

(b) "**Private Street Easement**" shall mean and refer to the area shown within the boundaries of any subdivision in the Property which is designated on the subdivision Plat of that subdivision as a "private street."

(c) "**Private Street Facilities**" shall mean and refer to all existing and subsequently provided improvements upon or within the Private Street Easement, except those as may be expressly excluded herein.

(d) "**Subdivision Access Facilities**" shall mean (i) any controlled access gate, guardhouse and any other access limiting structure or device, and (ii) any fences, freestanding fence type walls, hedges, gates, gateposts, subdivision identification signs and related improvements which are constructed or maintained by Declarant or the Association within the Private Street Easement or any Subdivision Service Easement.

(e) "**Subdivision Service Easement**" shall mean any area designated in the Plat of such Private Street Neighborhood, or by separate instrument recorded by Declarant, as a Common Area reserve or easement to be conveyed to the Association for maintenance of a perimeter subdivision fence or wall around all or a portion of such Neighborhood, and all other areas designated by Declarant or the Association for use as to any Subdivision Access Facilities.

8.3. **Perpetual Easement of Access and Enjoyment.** Subject to the other provisions and restrictions herein, every Owner of a Lot in a Private Street Neighborhood, and such Owner's family, shall have and is hereby granted a perpetual non-exclusive common right and easement of enjoyment in the Private Street Easements and Private Street Facilities located in that Private Street Neighborhood for the purposes for which such facilities are designed, and a right to obtain access thereto through any controlled access Subdivision Access Facilities, and such rights and easements shall be appurtenant to and shall pass with the title to every Lot in the particular Private Street Neighborhood. The guest, invitees and visitors of each Owner of a Lot in the particular Private Street Neighborhood shall have access to the Private Street Easements and Private Street Facilities in that Private Street Neighborhood subject to such system of regulation of access by telephone call-through facilities, key-pad access facilities or other access regulation facilities as may be established from time to time as herein provided. The rights and easements of enjoyment created hereby in favor of the Owners in a Private Street Neighborhood shall be subject to the rights and easements now existing or hereafter created in favor of Declarant or others as referred to or provided for in this Declaration, and shall also be subject

to the rights of the Association as set forth in Sections 8.4, 8.7 and 8.9, below. Nothing in this Declaration shall be construed to grant any easement in or to the Private Street Easements, Private Street Facilities, Subdivision Service Easements or Subdivision Access Facilities in any Private Street Neighborhood to any Owner or Member who does not own a Lot in the particular Private Street Neighborhood.

**8.4 Additional Powers, Duties and Authorities of the Association in Private Street Neighborhoods.** In addition to the duties and powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality hereof, the Association shall also discharge those functions necessary to the general upkeep, maintenance, repair and replacement of the Private Street Facilities and the Subdivision Access Facilities. The Board of Directors of the Association shall be empowered to oversee the activities of the Association and may take whatever lawful action that the Board, in its sole discretion, deems necessary to provide for the upkeep, maintenance, repair and replacement of the Private Street Facilities and the Subdivision Access Facilities and to enforce this Declaration for the common benefit of all or some of the Members of the Association. All rights of the Association herein and hereunder are vested in its Board of Directors unless specifically reserved to Declarant or a vote of the Members herein. The responsibilities of the Association with regard to the Private Street Facilities and Subdivision Access Facilities shall include, without limitation:

(a) The Association, subject to the rights of the Owners in the Private Street Neighborhood as set forth in this Declaration, shall be responsible for the exclusive management and control of the Private Street Facilities and the Subdivision Access Facilities and all improvements thereon (including furnishings and equipment related thereto), and shall keep it in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof. The Association shall have the right to establish and regulate a limited access gate and such other security oriented systems and procedures as it may determine, to issue, charge for, and require as a condition of entry to the Private Street Facilities, such identification cards, passes, keys, or similar devices as the Board may from time to time determine, and to limit the number of guests of Owners and Occupants who may use the Private Street Facilities and the Subdivision Access Facilities.

(b) The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property deemed necessary in connection with the operation, maintenance and repair of the Private Street Facilities and Subdivision Access Facilities in any Private Street Neighborhood as contemplated herein. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Private Street Neighborhood, conveyed to it by the Declarant for use as Private Street Easements, Subdivision Service Easements, Private Street Facilities and/or Subdivision Access Facilities. All land conveyed to the Association as Common Area for Private Street Facilities or Subdivision Access Facilities shall be free of all liens and other similar encumbrances.

(c) Notwithstanding anything contained in this Declaration to the contrary, Declarant, and the Association upon its succeeding to Declarant's rights, shall have the right, power and authority to dedicate to any public or quasi-public authority, streets and esplanades situated in the Private Street Easements and thereupon to terminate the effect of this Article VIII in such Private Street Neighborhood; provided, however, that no such dedication shall occur unless (i) under threat of condemnation, or (ii) with a vote of Owners in the Private Street Neighborhood holding fifty-one percent (51%) or more of the votes of Owners in the Private Street Neighborhood in which the public dedication of streets is to occur. Such dedication and acceptance thereof shall not prohibit the Association from maintaining certain lands and facilities located within dedicated areas (such as street esplanades), but upon such dedication all costs relating thereto shall be deemed general costs of the Association and not Special Neighborhood Assessments of just the Owners in the former Private Street Neighborhood.

(d) All costs of any services to be paid by the Association as hereinabove provided with respect to a particular Private Street Neighborhood shall be paid out of the Association's general maintenance fund but shall be assessed only against the Owners in the particular Private Street Neighborhood in which the services were provided, as a General Neighborhood Assessment.

(e) Notwithstanding the foregoing, however, no capital replacement of any portion of any Private Street Facility in any Private Street Neighborhood shall be performed (as opposed to

patching, repairing and maintaining the surface of such streets), and no capital replacement or capital improvement to any Subdivision Access Facility in any Private Street Neighborhood, shall be undertaken except with a prior vote or petition of the Owners holding sixty-six and two-thirds percent (66-2/3%) or more of all the votes of Owners in such Private Street Neighborhood. Upon the Association's receipt of written evidence of such vote or petition (which in either case shall be signed by all Owners voting in favor thereof), the Association will proceed with such capital replacement or improvement and assess the cost thereof to the Owners in such Private Street Neighborhood as a Special Neighborhood Assessment. For purposes hereof, any repair or replacement of Private Street Facilities or Subdivision Access Facilities that, in a single project or series of related projects would cost in excess of \$5,000.00 per Lot in such Private Street Neighborhood will be considered a capital replacement for purposes of this provision, and any betterment or addition to the Subdivision Access Facilities will be deemed a capital improvement thereto.

**8.5 Exemption of Certain Areas and Facilities from Assessment Liability.** All Private Street Easements, Private Street Facilities, Subdivision Service Easements and Subdivision Access Facilities shall be exempt from the Assessments and liens created, reserved and/or contemplated in this Declaration (whether such Assessments are particular to the Private Street Neighborhood or otherwise).

**8.6 Easement for Police, Mail and Emergency Access.** In each Private Street Neighborhood, as and when the same is platted, an easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles, and other service vehicles to enter upon the Private Street Facilities and Subdivision Access Facilities in the performance of their duties. An easement is also specifically granted to the United States Post Office, its agents and employees to enter upon any portion of the Property in performance of mail delivery or any other United States Post Office services. Further, an easement is hereby granted to the Association, its officers, agents, employees, and management personnel to enter the Private Street Facilities and Subdivision Access Facilities to render any service or perform any function contemplated herein.

**8.7 Declarant and Association Access Easements.** An easement is hereby granted to Declarant and to the Association, and their respective officers, agents, employees and management personnel to enter in or cross over any Private Street Facilities and Subdivision Access Facilities and/or the Lots to render any service or to perform any maintenance which the Association is permitted or required to provide or perform under this Declaration, and all work necessary to construct, maintain, repair, replace and operate the Private Access Facilities; and by virtue of said easement to do all things reasonably necessary to provide services or perform maintenance.

**8.8 Responsibilities of Association and Private Street Neighborhood Owners for Utility Costs, Taxes and Insurance Costs.** The Association shall have the following responsibilities regarding utility bills, taxes and insurance for the Private Street Facilities and Subdivision Access Facilities:

(a) The Association shall pay as a common expense of all Owners in the Private Street Neighborhood, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Private Street Facilities and the Subdivision Access Facilities or any part thereof.

(b) The Association shall render for taxation and, as part of the common expenses of all Owners in the Private Street Neighborhood, shall pay all taxes levied or assessed against or upon the Private Street Facilities and the Subdivision Access Facilities and the improvements and the property appertaining thereto.

(c) The Association shall have authority to obtain and continue in effect as a common expense of all Owners in the Private Street Neighborhood, a blanket property insurance policy or policies to insure the structures and facilities, if any, comprising the Private Street Facilities or the Subdivision Access Facilities and the contents thereof, against the risks of loss or damage by fire and other hazards as are covered under standard extended or all-risk coverage provisions, in such limits as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable.

(d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association as hereinabove provided with respect to a particular Private Street Neighborhood shall be paid out of the maintenance fund but shall be assessed only against the Owners in particular Private Street Neighborhood to which they relate, as a Neighborhood Base Annual Assessment.

**8.9 Adoption of Special Rules and Regulations by Owners in Private Street Neighborhoods.** In addition to the rulemaking authority of the Association, the Owners of Lots in a Private Street Neighborhood shall be entitled, upon a vote of sixty-six and two thirds (66-2/3) percent or more of the votes of Owners in that Private Street Neighborhood, to adopt rules and regulations governing the use of the Private Street Facilities, Private Street Easements and Subdivision Access Facilities in their Private Street neighborhood, and the Association, through its Board of Directors, will be empowered to enforce the same upon the appropriate number of Owners in such Private Street Neighborhood having signed and delivered such rules to the Association. Such rules and regulations must be consistent with the rights and duties established by this Declaration and any subsequent supplemental declarations. Sanctions may include reasonable monetary fines which shall constitute a lien upon the Owner's Lot (and improvements located thereon), suspension of the right to vote, and, except as to ingress and egress upon the Private Street Easements and Private Street Facilities, suspension of the right to receive services contracted for through the Association. In addition, the Board shall have the power (but not the obligation) to seek relief in any court for violations or to abate unreasonable disturbance.

**8.10 Non-Liability of Association and Declarant for Security.** Neither the Association nor Declarant shall have any liability whatsoever to any Owner in a Private Street Neighborhood by reason of the existence or provision from time to time of Subdivision Access Facilities in a particular Private Street Neighborhood, including devices or services intended to or which may have the affect of limiting or controlling access to the Private Street Facilities and Private Street Easements and the Lots in the Private Street Neighborhood, or providing patrol services, video cameras or otherwise monitoring activities within the Private Street Subdivision, nor the provision from time to time of information through newsletters or otherwise regarding crime and/or security issues (all such Subdivision Access Facilities and security related services being herein referred to as "**Security Services and Facilities**"). Without limitation of any other provision of this Declaration, each Owner and Member and their Occupants, family, guests and invitees, covenant and agree with respect to any and all Security Services and Facilities provided directly or indirectly by the Association as follows:

(a) Security is the sole responsibility of local law enforcement agencies and individual Owners and Members, their Occupants, and their respective guests and invitees. Security Services and Facilities in any Private Street Neighborhood shall be provided at the sole discretion of the Board of Directors and the Owners in such Private Street Neighborhood as herein contemplated.

The provision of any Security Services and Facilities at any time shall in no way prevent the Board, with the consent of the Owners in such Private Street Neighborhood as hereinafter provided, from thereafter electing to discontinue or temporarily or permanently remove such Security Service and Facilities or any part thereof.

(b) Any third party providers of Security Services (including those providing maintenance and repair of Security Facilities) shall be independent contractors, the acts or omissions of which shall not be imputed to the Association or its officers, directors, committee members, agents or employees.

(c) Providing of any Security Services and Facilities shall never be construed as an undertaking by the Association to provide personal security or as a guarantee or warranty that the presence of any Security Service or Facilities will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause.

(d) Each Owner, by his acceptance of a deed to a Lot in a Private Street Neighborhood, shall be deemed to waived, on behalf of such Owner and such Owner's Occupants, and their respective family members, guests and invitees, any and all claims, now or hereafter arising against the Declarant and the Association and their respective officers, directors, committee members, agents and employees arising out of or relating to any injuries, loss or damages whatsoever, including, without limitation any injury or damages caused by theft, burglary, trespass, assault, vandalism or any other crime, to any person or property arising, directly or indirectly, from the providing or failure to

provide any Security Services and Facilities, or the discontinuation, disruption, defect, malfunction, operation, repair, replacement or use of any Security Services and Facilities, WHETHER CAUSED OR ALLEGEDLY CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE DECLARANT OR THE ASSOCIATION OR THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, AGENTS, CONTRACTORS OR EMPLOYEES.

(e) To the extent the release in Section 8.10(d), above, is not deemed effective as to any Occupant, or any family member, guest or invitee of an Owner or Occupant of a Lot in a Private Street Neighborhood, the Owner of each Lot in a Private Street Neighborhood hereby indemnifies and agrees to defend and hold harmless the Declarant and the Association, and their respective officers, directors, committee members, agents, and employees from and against any and all claims, actions, suits, judgements, damages, costs and expenses (including attorney fees and court costs) arising from bodily injury (including, without limitation, mental anguish, emotional distress and death) and/or loss or damage to property suffered or incurred by any such Occupant of such Lot, or any family member, guest or invitee of the Owner or Occupant of such Lot, as a result of criminal activity within or in the vicinity of the Private Street Neighborhood, WHETHER CAUSED OR ALLEGEDLY CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE DECLARANT, THE ASSOCIATION OR THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, AGENTS, CONTRACTORS OR EMPLOYEES. Any obligation or liability of the Association which is borne by the Association because of an Owner not abiding by such release and indemnity obligations under this Section shall be assessed by the Association against the Lot of the Owner who failed to perform such obligation giving rise to such liability, as a Special Individual Assessment against such Lot and its Owner. Nothing herein shall make any Owner of a Lot in a Private Street Neighborhood liable to the Association or any other Lot Owner in such Private Street Neighborhood for any bodily injury (defined above) and/or loss or damage to property of the Occupant, family member, guest or invitee of any other Lot Owner in such Private Street Neighborhood.

(f) Each Owner shall be liable to the Association for any damage to the Private Street Facilities and/or the Subdivision Access Facilities of any type or to any equipment thereon which may be sustained by reason of the negligence of said Owner, his Occupant, employees, agents, customers, guests or invitees, to the extent that any such damage shall not be covered by insurance. Further, it is specifically understood that neither the Declarant, the Association, the Board of Directors, or any other Owner shall be liable to any person for injury or damage sustained by such person occasioned by the use of any portion of such Owner's Lot or any portion of the Private Street Facilities or Subdivision Access Facilities within the Properties. Every Owner does hereby agree to defend, indemnify and hold harmless the Declarant, the Association, the Board of Directors and other Owners from and against any such claim or damage as referenced in the immediately preceding sentence hereof, including, without limitation, legal fees and court costs WHETHER CAUSED OR ALLEGEDLY CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE ASSOCIATION OR ITS OFFICERS, DIRECTORS, COMMITTEE MEMBERS, AGENTS, CONTRACTORS OR EMPLOYEES.

## ARTICLE IX

### ANNEXATION OF ADDITIONAL PROPERTY; DEANNEXATION

9.1 Annexation Without Approval of Membership. As the Owner thereof, or if not the Owner, with the consent of the Owner thereof, Declarant, its successors or assigns, shall have the unilateral right, privilege, and option, from time to time at any time until twenty (20) years from the date this initial Declaration is recorded in the Office of the County Clerk of Montgomery County, Texas, to annex and subject to the provisions of this Declaration and the jurisdiction of the Association any property it may desire, whether in fee simple or leasehold, whether contiguous or non-contiguous, by filing in the Real Property Records of Montgomery County, Texas, a Supplemental Declaration annexing such property as more fully described below. Such Supplemental Declaration shall not require the vote of Members of the Association or approval by the Association or any person. Any such annexation shall be effective upon the filing of such Supplemental Declaration in the Real Property Records of Montgomery County, Texas, unless otherwise provided therein.

Any such annexation or addition shall be accomplished by the execution and filing for record by

Declarant (or the other Owner of the Property being added or annexed, to the extent such Owner has received a written assignment from Declarant of the right to annex), of an instrument to be called "SUPPLEMENTAL DECLARATION" or "SUPPLEMENTAL DECLARATION OF ANNEXATION." Each Supplemental Declaration of annexation must set out and provide for the following:

- (a) the name of the Owner of the Property being added or annexed who shall be called the "Declarant" for purposes of that Supplemental Declaration;
- (b) the legally sufficient perimeter (or recorded subdivision) description of the Property being added or annexed;
- (c) a mutual grant and reservation of rights and easements of the Owners in and to the existing and annexed Common Property and the facilities thereon;
- (d) that the Property is being added or annexed in accordance with and subject to the provisions of this initial Declaration, as theretofore amended, and that the Property being annexed shall be developed, held, used, sold and conveyed in accordance with and subject to the provisions of this Declaration as theretofore and thereafter amended;
- (e) that all of the provisions of this Declaration, as theretofore amended, shall apply to the Property being added or annexed with the same force and effect as if said Property were originally included in this Declaration as part of the Initial Property (subject to such modifications and exceptions as are stated therein and approved by the Association and Declarant as required herein); and
- (f) that a contract lien is therein reserved in favor of the Association, in the same manner as herein provided, to secure collection of the Assessments provided for, authorized or contemplated herein or in the Supplemental Declaration of annexation.

Each such "Supplemental Declaration" may contain other provisions not inconsistent with the provisions of this Declaration, as amended.

At such time as any "Supplemental Declaration" (of annexation) is filed for record as hereinabove provided, the annexation shall be deemed accomplished and the annexed area shall be a part of the Properties and subject to each and all of the provisions of this initial Declaration (as theretofore amended), and to the jurisdiction of the Association, in the same manner and with the same force and effect as if such annexed Property had been originally included in this initial Declaration as part of the Initial Property.

After additions or annexations are made, all Assessments collected by the Association from the Owners in the annexed areas shall be commingled with the Assessments collected from all other Owners so that there shall be a common maintenance fund for the Properties. Nothing in this Declaration shall be construed to represent or imply that Declarant, its successors or assigns, are under any obligation to add or annex additional Property to this development.

9.2 **Annexation With Approval of Membership.** Subject to the written consent of the Owner thereof, upon the written consent by affirmative vote of two-thirds (2/3) of the total number of votes of the Association present or represented by proxy at a meeting duly called for such purpose, but only if Declarant approves the same in writing during any period when the Declarant is a Class B Member, the Association may annex or permit the annexation of real property to the provisions of this Declaration and the jurisdiction of the Association by filing, or having the party owning such property file, a Supplemental Declaration in respect to the Property being annexed in the Real Property Records of Montgomery County, Texas. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and any such annexation shall be effective upon recording in the Real Property Records of Montgomery County, Texas, unless otherwise provided therein. The timing of and manner in which notice of any such meeting of the Members of the Association, called for the purpose of determining whether additional Property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the By-Laws of the Association for regular or special meetings, as the case may be.

9.3 **Deannexation.** At any time and from time to time, as Declarant may determine in its

sole and absolute discretion, without any obligation or liability to any Owner or any Owner's lender by reason thereof, Declarant may remove Property owned by it from this Declaration (and, thereby, from the jurisdiction of the Association) by filing in the Real Property Records of Montgomery County, Texas, a "Notice of Deannexation of Property" stating that the parcel or parcels of land described therein are no longer part of the Property or subject to this Declaration. Such deannexation shall be effective immediately upon the filing of the Notice of Deannexation in the Real Property Records of Montgomery County, Texas, without notice to any party whomsoever, including, without limitation, any other Owner.

## **ARTICLE X**

### **CASUALTY AND CONDEMNATION OF COMMON AREAS**

10.1 **Casualty to Common Facilities; Disbursement of Proceeds.** Proceeds of Association insurance policies covering fire or other casualty to Common Area property or facilities shall be used and disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction (including permitting, design, clearing and disposal costs), as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Areas or facilities, or in the event no repair or reconstruction is made, the balance of such insurance proceeds shall be retained by and for the benefit of the Association.

(b) If it is determined, as provided for in Section 10.2 of this Article, that the damage or destruction to the Common Areas or facilities for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds herein.

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

(a) Any damage or destruction to the Common Areas or facilities shall be repaired or reconstructed unless at least seventy five percent (75%) of all votes in the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, that such extensions shall not exceed an aggregate of an additional sixty (60) days. No Mortgagee of a Lot shall have the right to participate in the determination of whether the Common Areas or facilities damaged or destroyed shall be repaired or reconstructed.

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

10.3 **Repair and Reconstruction.** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's Members, levy a special assessment against all Class A Members in proportion to the number of votes attributed to the Lots owned by them. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be deposited to the benefit of the Association.

10.4 **Condemnation.** In the event that all or any part of the Common Areas shall be taken

by any authority having the power of condemnation or eminent domain, no Owner shall be entitled to notice thereof nor be entitled to participate in the proceedings incident thereto. Any decision by the Board of Directors to convey Common Areas in lieu of or under threat of condemnation, or to accept an agreed award as compensation for such taking, shall require approval by a vote of fifty-one percent (51%) of a quorum of the Members of the Association present and voting at a regular meeting or a special meeting called for such purpose. The award made for such taking shall be payable to the Association to be handled and disbursed as follows:

If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy five percent (75%) of the total number of votes in the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas, to the extent lands are available therefor, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Section 10.3 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not affect any improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine from time to time, including, but without obligation to do so, to reduce or defray annual assessments for a period of time determined by the Board.

#### **ARTICLE XI. GENERAL PROVISIONS**

11.1 **Enforcement.** The terms and provisions of this Declaration shall run with and bind the land included in the Property, and shall inure to the benefit of and be enforceable by Declarant, the Association, or the Owner of any Lot, and by their respective legal representatives, heirs, successors and assigns; provided, however, that no Owner shall be entitled to enforce this Declaration in a manner contrary to a decision of the Association or any Architectural Committee in areas in which discretionary authority over such decisions is vested in the Association or either such Architectural Committee. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating or threatening to violate any term or provision hereof, to enjoin or restrain violation or to recover damages, and against the Property to enforce any lien created by this Declaration, and failure of Declarant, the Association, or any Owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter.

11.2 **Right to Subdivide or Resubdivide.** Prior to the time Declarant parts with title thereto, Declarant shall have the right (but shall never be obligated) to subdivide or resubdivide into Lots, by recorded Plat or in any other lawful manner, all or any part of the land included within the Property. During any period that Declarant owns any part of the Property, Declarant's prior written approval must be obtained to any subdivision Plat to be filed of record by any Owner. Except for Platting by Declarant, the Association's prior written approval shall also be required for any subdivision Platting which changes the boundaries of any Plat previously filed or approved by Declarant or the Association.

11.3 **Severability.** Invalidation of any one of this Declaration or any restrictions or covenants herein by judgment or court order shall in no way affect any other provision which shall remain in full force and effect to the maximum extent allowed by applicable law, and this Declaration shall be reformed to provide as closely as possible to the intent of this original Declaration in regard to such invalid provision in a manner that will not be invalid under applicable law.

11.4 **Owner's Easement of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

- (a) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which an assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for each infraction of its published rules and regulations;

- (b) the right of the Association to dedicate or transfer all or any part of the Common Area, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Members agreeing to such dedication or transfer has been recorded in the Public Records of Montgomery County, Texas;
- (c) the right of the Association to collect and disburse those funds as set forth in Article VII hereof.

11.5 **Delegation of Use.** Any Owner may delegate in accordance with the By-Laws of the Association, his right of enjoyment to any Common Area and facilities to the members of his family, or his tenants, so long as such family members or tenants reside on a Lot within the Property.

11.6 **Books and Records.** The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any Members. The Articles of Incorporation, By-Laws of the Association, and Declaration shall be available for inspection by any Member at the principal office of the Association where copies may be purchased at a reasonable cost.

11.7 **Interpretation.** If this Declaration, or any word, clause, sentence, paragraph or other part thereof, shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

11.8 **Omissions.** If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

11.9 **Notice.** Any notice required or desired to be given under this Declaration shall be in writing and shall be deemed to have been properly served when (i) delivered in person and receipted for, or (ii) three (3) days after deposit in the United States Mail, certified, return receipt requested, postage prepaid, addressed, if to an Owner, to the Owner's last known address as shown on the records of the Association at the time of such mailing or, if to the Association, to its President, Secretary or registered agent. The initial address for the Association and Declarant shall be:

**CRIGHTON RIDGE HOMEOWNERS ASSOCIATION, INC.**

c/o Centennial Homes, Inc.  
333 Cypress Run, Suite 300,  
Houston, Texas 77094

And such address for the Association and Declarant shall be effective unless and until a supplement to this Declaration shall be made and filed in the Real Property Records of Montgomery County, Texas, specifying a different address for the party filing such supplement (in which event such address specified in such supplement shall be the address, for the purposes of this Section 11.9, for the addressee named in such supplement).

11.10 **Choice of Law.** This instrument shall be subject to and governed by the laws of the State of Texas. Each party hereby submits to the jurisdiction of the courts of the State of Texas. Venue shall be proper for any action in Montgomery County, Texas.

11.11 **Effect of Waiver or Consent.** No waiver or consent, express or implied, by the Association, Architectural Committee, any Owner or any other party to or of any breach or default by any Owner in the performance of the obligations hereunder shall be deemed or construed to be a consent or waiver of any other breach or default in the performance by such Owner of the same or any other obligations of such Owner hereunder. Failure on the part of an Owner, Architectural Committee, the Association, Declarant or any other party to complain of any act of any Owner or to declare any Owner in default, irrespective of how long such failure

continues, or conduct condoned, shall not constitute a waiver by such party of the rights hereunder.

11.12 **Duration.** This Declaration shall remain in full force and effect for a term of thirty (30) years from the date this Declaration is recorded in the Office of the County Clerk of Montgomery County, Texas, after which time this Declaration shall be extended automatically for successive periods of ten (10) years each unless and until an instrument signed by the Members entitled to cast not less than seventy-four percent (74%) of the aggregate of the votes of all of the Classes of Membership viewed as a whole has been filed for record in the Office of the County Clerk of Montgomery County, Texas, agreeing to terminate this Declaration. Such an instrument so filed for record shall become effective on the date stated therein or one (1) year after it is so filed for record, whichever is the later date. No particular area or Neighborhood annexed herein by Supplemental Declaration or otherwise made a separate Neighborhood hereunder, nor the Owners thereof, shall be entitled to elect not to renew the term hereof, as it pertains to such Neighborhood, except upon a vote of the requisite percentage (set forth above) of all Members of the entire Association, including those Members owning Lots within and those owning Lots outside of the Neighborhood or annexed area that desires non-renewal.

11.13. **Amendments.** This Declaration may be amended in whole or in part by any instrument executed by the President of the Association when approved by Members entitled to cast not less than seventy-four percent (74%) of the aggregate of the votes of all Members of the Association, regardless of whether such Members are or are not present at a meeting of the Members called for that purpose. Following any such amendment, every reference herein to this Declaration shall be held and construed to be a reference to this Declaration as so amended. All amendments shall be recorded in the Real Property Records of Montgomery County, Texas. Nothing herein or in any Supplemental Declaration shall permit or be construed to permit the Owners of Lots within a given Neighborhood or a portion of the Property annexed by Supplemental Declaration to alone decide to de-annex all or any part of such Neighborhood or annexed Property from this Declaration or the jurisdiction of the Association, or to amend any particular restriction, requirement or provision herein, except upon a vote of seventy-four percent (74%) of all of the Members in the entire Association, including (but not requiring any particular percentage vote of) those Owners who were Members of the Association prior to the annexation of the Neighborhood or annexed area in question. No such group of Owners or Members shall have such right to secede from the Association or amend such restrictions except on an Association-wide vote as above contemplated.

11.14. **Assignment of Declarant Rights.** Declarant may assign or transfer some or all of its rights as Declarant hereunder to one or more third parties provided that (i) at the time of the assignment such assignee owns more than one Lot (or, contemporaneously with the assignment of the Declarant's rights, is being conveyed more than one Lot), and (ii) such assignee is expressly designated in writing by CENTENNIAL HOMES, INC., as an assignee of all or part of the rights of CENTENNIAL HOMES, INC., as Declarant hereunder. In any assignment of all or part of the Declarant's rights to a third party pursuant to the terms hereof, CENTENNIAL HOMES, INC., may specify that the assignee or designee has or does not have the right (or has a limited right) to further assign the Declarant rights being transferred to the assignee. However, in the absence of any reference to a restriction on further assignment, the assignee shall have the right to further assign such transferred Declarant rights on the same terms as are stated above for CENTENNIAL HOMES, INC., except that the assignment under clause (ii) will be executed by the assignee of Declarant's rights having such power of assignment and the assignment by such assignee may not transfer Declarant rights more expansive than those transferred to the assigning Declarant pursuant to the assignment instrument by which it received such rights. Any attempted assignment or transfer of Declarant rights hereunder which does not strictly comply with the requirements of this Section shall be liberally interpreted as being in compliance with the requirements hereof if the intent of the parties to transfer Declarant rights pursuant hereto is reasonably clear.

11.15. **Incorporation.** The terms and provisions of this Declaration shall be construed as being adopted in each and every contract, deed, or conveyance hereafter executed by Declarant conveying all or any part of the land in the Property, whether or not referred to therein, and all estates conveyed therein and warranties of title contained shall be subjected to the terms and provisions of this Declaration.

11.16. **Covenants Running With Title.** The covenants and restrictions of this Declaration

