

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
THE WOODS AT MOUNTAIN SPRINGS**

4707

STATE OF TEXAS

*

KNOWN ALL MEN BY THESE

PRESENTS:

COUNTY OF COOKE

*

This Declaration, made on the date hereinafter set forth by
PROPERTIES OF THE SOUTHWEST INC., a Delaware corporation,
duly authorized to do business in the State of Texas, hereinafter
referred to as "Developer",

FILED FOR RECORD

97 JUL 15 PM 4: 27

EVELYN WALTERSCHEID
COUNTY CLERK, COOKE CO. TX

BY SW DEPUTY

WITNESSETH:

WHEREAS, Developer is the owner of that certain tract of land known
as THE WOODS AT MOUNTAIN SPRINGS consisting of 227.375
Acres of land situated in Cooke County, Texas (hereinafter referred to
as the "Subdivision"), with the plat ("Plat") of THE WOODS
(hereinafter referred to as "The Woods"), recorded in the office of the
County Clerk of Cooke County, Texas on the 15, of July,
1997 after having been approved as provided by law, and being
recorded in Volume B, Page 230, of the Plat Records of
Cooke County, Texas; and

WHEREAS, it is the desire of Developer to impose certain restrictions,
easements, covenants, conditions, stipulations and reservations (herein
sometimes referred to as the "Restrictions") upon and against such THE
WOODS in order to establish a uniform plan for it's development,
improvement and sale, and to insure the preservation of such uniform
plan for the benefit of both the present and future owners of tracts in
THE WOODS;

NOW, THEREFORE, Developer hereby adopts, establishes and imposes
upon THE WOODS and declares the following reservations, easements,
restrictions, covenants and conditions, applicable thereto, all of which
are for the purposes of enhancing and protecting the value, desirability
and attractiveness of said Property, which Restrictions shall run with
said Property and title or interest therein, or any part thereof, and shall
inure to the benefit of each owner thereof and bind each Owner hereto.
Developer also declares that THE WOODS shall be subject to the
jurisdiction of the "Association" (as hereinafter defined).

**ARTICLE I
DEFINITIONS**

Section 1.01 "Accessory Building" shall mean and refer to a
subordinate building, attached to or detached from the Dwelling (as
hereinafter defined).

Section 1.02 "Association" shall mean and refer to The Woods at
Mountain Springs Property Owners Association, and its successors and
assigns.

Section 1.03 "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.04 "Builders" shall mean and refer to persons or entities that purchase tracts and build speculative or custom homes thereon for third party purchasers.

Section 1.05 "Contractor" shall mean and refer to the person or entity with whom an Owner contracts to construct a residential dwelling on such Owner's Tract.

Section 1.06 "Developer" shall mean and refer to Properties of the Southwest, Inc. and its successors and assigns and includes where applicable, its employees acting for or on behalf of Developer.

Section 1.07 "Dwelling" shall mean and refer to a building having accommodations for and occupied by not more than one Family (as hereinafter defined).

Section 1.08 "Front Yard" shall mean and refer to a space on a Tract facing a Street (as hereinafter defined) and extending across the front of the Tract between the Side Lines (as hereinafter defined) and being the horizontal distance between the Street Line (as hereinafter defined) and the Dwelling or any projection thereof other than the projection of the usual steps and eave over-hangs.

Section 1.09 "Garage" shall mean and refer to an Accessory Building or a portion of a Dwelling in which motor-driven vehicles are stored.

Section 1.10 "Height" shall mean and refer to the measurement from the average established grade at the Street Line abutting the Tract or, if higher, from the highest natural ground level of the two points where the Front Setback Line (as hereinafter defined) intersects the two Side Lines of the Tract, to the highest point of the Improvement being measured.

Section 1.11 "The Woods" shall mean, refer to, and include all Tracts within The Woods hereafter made subject to the jurisdiction of the Association.

Section 1.12 "Owner" shall mean and refer to the then record owner, whether one or more persons or entities, of fee simple title to any Tract which is a part of the Subdivision, including where applicable (i) contract sellers (a seller under a Contract-for-Deed), but excluding those having such interest merely as security for the performance of an obligation, (ii) Developer, and (iii) Builders.

Section 1.13 "Plat" shall collectively mean and refer to: (i) the Final Plat of The Woods, an addition to Cooke County, Texas, recorded in ~~CAUSEY B.~~ Plat Records, Cooke County, Texas.
~~SIDE 230~~

Section 1.14 "Rear Line" shall mean the opposite property line of Street Line.

Section 1.15 "Rear Yard" shall mean and refer to a space extending across the rear of a Tract from one Side Line to the other Side Line and being the horizontal distance between the Rear Line and the Dwelling or any projection thereof other than the projection of the usual steps and eave over-hangs.

Section 1.16 "Side Line" shall mean and refer to any boundary line of a Tract which is not a Street Line or Rear Line.

Section 1.17 "Street" shall mean and refer to the roadways dedicated by the Developer to Cooke County, Texas, by the Plat and accepted by Cooke County, Texas as public streets and roadways.

Section 1.18 "Street Line" shall mean and refer to that boundary line of a Tract which is also the boundary line of a Street.

Section 1.19 "Tract" shall mean and refer to any plot of land identified as a tract or homesite on the Plat.

ARTICLE II RESERVATIONS, EXCEPTION AND DEDICATIONS

Section 2.01 Recorded Subdivision Map of the Property. The plat ("Plat") of The Woods dedicates for use as such, subject to the limitations as set forth therein, the roads, streets and easements shown thereon. The Plat further establishes certain restrictions applicable to The Woods. All dedications, restrictions and reservations created herein or shown on the Plat, replats or amendments of the Plat of The Woods recorded or hereafter recorded shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of Developer, whether specifically referred to therein or not.

Section 2.02 Easements. Developer reserves for public use the utility easements shown on the Plat or that have been or hereafter may be created by Developer or Developer's successors or assigns by separate instrument recorded in the Real Property Records of Cooke County, Texas, for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, storm surface drainage, cable television, or any other utility the Developer sees fit to install in, across and/or under such utility easements. All dedicated utility easements in The Woods may be used for the construction of drainage swales in order to provide for improved surface drainage of Tracts. Should any utility company furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer, without the joinder of any other Owner, shall have the right to grant such easement on said property without conflicting with the terms hereof. Any utility company serving The Woods shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities. Neither Developer nor any utility company, political subdivision or other authorized entity using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants, to fences,

shrubbbery, trees and lawns or any other property of the Owner on the property covered by said easements.

Section 2.03 Title Subject to Easements. It is expressly agreed that Developer reserves the easements in gross and it is understood that the title conveyed by Developer to any of the Tracts by contract deed or other conveyance shall be subject to any easement now and hereafter affecting same for roadways or drainage, electric lighting, electric power, telegraph or telephone purposes and other easements hereafter granted affecting the Tracts. The Owners of the respective Tracts shall not be deemed to own pipes, wires, conduits or other service lines running through their Tracts which are utilized for or service other Tracts. The Developer may convey title to said easements to the public or a public utility company.

Section 2.04 Utility Easements.

(a) Utility ground and aerial easements have been dedicated in accordance with the Plat and by separate recorded easement documents.

(b) No building shall be located over, under, upon or across any portion of any utility easement. The Owner of each Tract shall have the right to construct, keep and maintain concrete drives, fences, and similar improvements across any utility easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Tracts, provided, however, any concrete drive, fence or similar improvement placed upon such Utility Easement by the Owner shall be constructed, maintained and used at Owner's risk and, as such, the Owner of each Tract subject to said Utility Easements shall be responsible for (i) any and all repairs to the concrete drives, fences and similar improvements which cross or are located upon such Utility Easements and (ii) repairing any damage to said improvements caused by the Utility District or any public utility in the course of installing, operating, maintaining, repairing, or removing its facilities located within the Utility Easements unless otherwise agreed upon by the Utility Company.

Section 2.05 These Restrictions shall not apply to the building existing and now located, on the effective date hereof, on Tract 42 insofar as they shall be in conflict with the building's current or intended use. In the event the building shall be abandoned or destroyed Tract 42 shall thereafter conform to these Restrictions. Temporary non use or remodeling of the interior and/or exterior walls shall not be considered abandonment or destruction. Any other remodeling or expansion size shall subject the building to all applicable provisions hereof. Except to such non conforming use and location permitted hereby all other provisions hereof applicable to such Tract shall apply unless a waiver is granted as provided in Article 4.05.

**ARTICLE III
USE RESTRICTIONS**

Section 3.01 Single Family Residential Construction. No building shall be erected, altered, placed or permitted to remain on any Tract other than one dwelling unit per each Tract to be used for residential purposes. Detached garages, work shops, and other out buildings may be constructed on the property prior to the time the main dwelling is being built so long as they are of good construction, kept in good repair, and are not used for residential purposes. All dwellings, detached garages, work shops, and out building must be approved in writing by the Architectural Control Committee prior to being erected, altered or placed on the property. The term "dwelling" does not include single or double wide or other manufactured homes, and said manufactured homes are not permitted within the Subdivision. All dwellings must have at least 1600 square feet of living area, excluding porches, and a minimum of a two car garage which may be detached. The improvements must be built with new construction material with exteriors being 95% masonry, glass or natural wood products (ie. no aluminum or asbestos siding and no plywood siding). All out buildings, or detached garages, must be of similar construction, may have a metal siding, and are subject to approval of the Architectural Control Committee prior to construction. No more than two (2) out buildings per Tract shall be permitted. Any building, structure or improvement commenced on any tract shall be completed as to exterior finish and appearance within six (6) months from the commencement date. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes, pre-built homes, manufactured homes or trailers being placed on said Tracts for the use as a permanent resident, or the use of said Tracts for duplex houses, condominiums, townhouses, or apartment houses. All tracts shall be for residential purposes and all homes must be site constructed.

Section 3.02 Composite Building Site. Any Owner of one or more adjoining Tracts (or portions thereof) may, with the prior written approval of the Architectural Control Committee and Cooke County consolidate such Tracts or portions into one building site, with the privilege of placing or constructing improvements on such resulting site, in which case the side set-back lines shall be measured from the resulting side property lines rather than from the Tract lines as indicated to the Plat.

Section 3.03 Location of the Improvements upon the Tract. No building of any kind shall be located on any tract nearer than fifty (50) feet to any side property line. No homes shall be located on any tract nearer than 100 feet to any public road and no nearer than fifty (50) feet to the rear of the property line of any tract. Any waiver of or variation from this requirement must first obtain approval from the Architectural Control Committee, then must be recorded in the Deed Records of Cooke County, Texas. All dwellings placed on Subject Property must be equipped with septic tank or other sewage disposal system meeting all applicable laws, rules, standards and specifications, and all such dwellings must be served with electricity.

Section 3.04 Use of Temporary Structures. No structure of a temporary character, whether trailer, tent, shack, garage, barn or other out building shall be maintained or used on any Tract at any time as a residence, either temporarily or permanently; provided, however, that

Developer reserves the exclusive right to erect, place and maintain such facilities in or upon any property in the Subdivision that it owns as in its sole discretion may be necessary or convenient while selling Tracts, selling or constructing residences and constructing other improvements within the Subdivision. However, owners may temporarily locate motor homes and travel trailers on their tracts for a period of time, not to exceed more than fourteen (14) days in any calendar month.

Section 3.05 Walls and Fences. Walls and fences, if any, must be approved by the Architectural Control Committee and shall be no closer to front street property lines than the front line of the house. However, if the property line is fenced, the fence fronting roadways must be constructed of white pipe and cable.

Section 3.06 Prohibition of Offensive Activities. No Activity, whether for profit or not, shall be conducted on any tract which is not related to single family residential purposes, unless said activity meets the following criteria: (a) no additional exterior sign of activity is present, (b) it is the type of action that usually happens in a home, (c) no additional traffic, that would not be there normally, is created, (d) the entity or activity maintains an office or place of business elsewhere, and (e) no hazardous or dangerous materials may be stored in bulk on the Tract. This restriction is waived in regard to the customary sales activities required to sell tracts or homes in the Subdivision. The discharge or use of firearms is expressly prohibited. The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance.

Section 3.07 Garbage and Trash Disposal. Garbage and trash or other debris accumulated in this Subdivision shall not be permitted to be dumped at any place or upon adjoining land. No tract shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of regularly. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 3.08 Junked Motor Vehicles Prohibited. No Tract shall be used as a depository for abandoned or junked motor vehicles. No junk of any kind or character, or dilapidated structure or building of any kind or character, shall be kept on any tract. Boats, RV's and travel trailers may be stored on Tracts after the residence is constructed, however, they must be stored in the side yard and must be parked no closer than the front line of the house to the street.

Section 3.09 Signs. No signs, advertisement, billboards or advertising structure of any kind may be erected or maintained on any Tract without the consent in writing of the Architectural Control Committee and Properties of the Southwest, Inc. except one (1) professionally made sign not more than twenty-four inches by twenty-four inches, advertising an Owner's Tract for sale or rent, and one (1) professionally made sign, not more than twelve inches (12") wide by twenty-four inches (24") long identifying the tract owner's name or names. During construction of the home or out building, contracted Builders are permitted to have one (1) professionally made sign, not more than

thirty-six inches (36") wide by thirty-six inches (36") long for advertising purposes, but shall be required to remove said sign upon completion of contracted construction. All other signs are prohibited. Developer shall have the right, which Owners hereby gives to Developer or any member of such Committee shall have the right to remove any such sign, advertisement or billboard or structure which is placed on any Tract in violation of these restrictions, and in doing so, Owner agrees that Developer shall not be liable, and is hereby expressly relieved from, any liability for trespass or other tort in connection therewith, or arising from such removal.

Section 3.10 Animal Husbandry. No hogs, pigs or poultry of any kind shall be raised, bred or kept on any Tract. Property Owners shall be limited to one (1) horse, or other large animal per acre, only if property is fenced with fencing capable of turning such animal. Dogs, cats, or other common household pets may be kept on a Tract. There shall be no more than four (4) adult dogs per household. Dogs must be kept in a kennel, dog run, or fenced in area that confines said dog(s) to that area. Dogs will not be permitted to run loose in the subdivision and must be vaccinated for rabies according to State law once a year and registered with Cooke County once a year.

Section 3.11 Mineral Development. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted. No derrick or other structures designed for the use of boring for oil or natural gas, quarrying or mining of any kind shall be erected, maintained or permitted upon any Tract.

Section 3.12 Drainage. Natural established drainage patterns of tracts (unless otherwise agreed upon by the parties affected thereby), streets or roadway ditches will not be impaired by any person or persons. Driveway culverts must be installed and will be of sufficient size to afford proper drainage of ditches without backing water up into ditch or diverting flow. Drainage culvert installation is subject to the inspection and approval of Cooke County and must be installed prior to any construction on the Tract. Driveways must be approved by Cooke County prior to installation and must be constructed in accordance with standard detail as approved by the Architectural Control Committee.

Section 3.13 Duty of Maintenance. Owners and occupants (including lessees) of any Tract shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that Tract so owned or occupied, including improvements and grounds in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following:

- a. Prompt removal of all litter, trash, refuse and wastes
- b. Lawn mowing
- c. Tree and shrub pruning
- d. Watering

- e. Keeping exterior lighting and mechanical facilities in working order
- f. Keeping lawn and garden areas alive, free of weeds and attractive
- g. Keeping driveways in good repair
- h. Complying with all government health and policy requirements
- i. Repair of exterior damage to improvements
- j. The Architectural Control Committee shall designate four (4) mowing days per year on which date each owner must mow their Tract.

In the event of the failure of Owner to comply with the above requirements after ten (10) days written notice thereof, the Association or their designated agents may, without liability to the Owner, Contractor or any occupants of the Tract in trespass or otherwise, enter upon (and/or authorize one or more others to enter upon) said Tract, cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration all at expense of the Owner, payment for which shall be accordance with Article 3.14. Owner agrees to reimburse the Association for all charges or other expenses for which the Association shall become liable. Payment for the charges or other expense shall be due and payable on the first day of the next succeeding calendar month.

Section 3.14 Enforcement. If, in the opinion of the Board of Directors or the Committee any such Owner or occupant (including lessees) has failed to comply with any of the foregoing restrictions or has failed in any of the foregoing duties or responsibilities, then the Committee or the Association shall deliver to such Owner or occupant (including lessees) written notice of such failure and such Owner or occupant (including lessees) must within ten (10) days from and after delivery of such notice, comply with the restrictions and/or perform the care and maintenance required. Should any such Owner or occupant (including lessees) fail to fulfill this duty and responsibility within such period, then the Committee, or the Association, or their designated agents are hereby authorized to enter onto the premises and correct such violations and perform such care and maintenance as necessary without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and occupants (including lessees) of any Tract on which such work is performed shall promptly reimburse the Committee or the Association for such cost. If such Owner or occupant (including lessees) shall fail to reimburse the Committee or the Association within 30 Days from and after delivery by the Association of an invoice setting forth the costs incurred by the association for such work, then said indebtedness shall be a debt of the Owner and occupant (including lessees) jointly and severally.

**ARTICLE IV
ARCHITECTURAL CONTROL COMMITTEE**

Section 4.01 Basic Control.

(a) No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced or changes made in the design or exterior appearance thereof (excluding, without limitation, painting, staining or siding), or any addition or exterior alteration made thereto after original construction, or demolition or destruction by voluntary action made thereto after original construction, on any Tract in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) from the Committee, and Cooke County, of the construction plans and specifications for the construction or alteration of such improvements or demolition or destruction of existing improvements by voluntary action.

(b) Each application made to the Committee, or to the Developer under Section 4.02 below accompanied by three sets of plans and specifications for all proposed construction (initial or alteration) to be done on such Tract, including plot plans showing location on the tract. Upon receipt, the Architectural Control Committee shall forward one set of the plans and specifications to the Developer.

Section 4.02 Architectural Control Committee.

(a) The authority to grant or withhold architectural control approval as referred to above is initially vested in the Developer; provided, however, the authority of the Developer shall cease and terminate upon the election of the Architectural Control Committee of the Association (sometimes herein referred to as the "Committee"), in which event such authority shall be vested in and exercised by the Committee (as provided in (b) below), hereinafter referred to, except as to plans and specifications and plot plans theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plot plans. The term "Committee", as used in this Declaration, shall mean or refer to the Developer or to the Cooke Architectural Control Committee composed of members of the Association, as applicable.

(b) At such time as Seventy percent (70%) of all of the Tracts of the Subdivision are conveyed by Developer (from time to time hereafter referred to as the "Control Transfer Date") the Developer shall cause an instrument transferring control to the Association to be placed of record in the Real Property Records of Cooke County, Texas (which instrument shall include the Control Transfer Date). Thereupon, the Association shall elect a committee of three (3) members to be known as The Woods at Mountain Springs Architectural Control Committee. From and after the Control Transfer Date, each member of the Committee must be an Owner of property in The Woods at Mountain Springs Subdivision. Additionally, the Developer shall have the right to discontinue the exercise of architectural control privileges and arrange for the transfer to the Association at any time prior to the Control Transfer Date by filing a statement and instrument to such effect in the Real Property Records of Cooke County, Texas.

Section 4.03 Effect of Inaction. Approval or disapproval as to architectural control matters as set forth in the preceding provisions of this Declaration shall be in writing. In the event that the authority exercising the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plans and specifications and plot plans received by it in compliance with the preceding provisions within thirty (30) days following such submissions, such plans and specifications and plot plan shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded with in compliance with all such plans and specifications and plot plan and all of the other terms and provisions hereof.

Section 4.04 Effect of Approval. The granting of the aforesaid approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the Committee that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plot plan; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plot plan, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reasons of the good faith exercise thereof.

Section 4.05 Variance. The Developer, Cooke County, and the Committee, may authorize variances from compliance with any of the provisions of this Declaration or minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Developer, the Committee, and Cooke County, when circumstances such as topography, natural obstructions, Tract configuration, Tract size, hardship, aesthetic or environmental considerations may require a variance. The Developer, the Committee, and Cooke County, reserve the right to grant variances as to building set-back lines, minimum square footage of the residence and other items. Such variances must be evidenced in writing and shall become effective when signed by the Developer or by at least a majority of the members of the Committee, and Cooke County. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance by the developer or the Committee, effect in any way the Owner's obligation to comply with all governmental laws and Cooke County regulations affecting the property concerned and the Plat.

ARTICLE V

THE WOODS AT MOUNTAIN SPRINGS PROPERTY OWNERS ASSOCIATION

Section 5.01 Membership. Every person or entity who is a record owner of any Tract which is subject to the Maintenance charge (or could be following the withdrawal of an exemption therefrom) and other assessments provided herein, including contract sellers, shall be a "Member" of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. Owners shall have one membership for each Tract owned by such Member. Memberships shall be appurtenant to and may not be separated from the ownership of the Tracts. Regardless of the number of persons who may own a Tract (such as husband and wife, or joint tenants, etc.) there shall be but one membership for each Tract. Additionally, the Directors of the Association shall also be Members of the Association (as more particularly described in the By-laws). Ownership of the Tracts shall be the sole qualification for membership. The voting rights of the Members are set forth in the Bylaws of the Association. However, the Restrictive covenants will not be construed as to assess the Veterans Land Board or the State of Texas. Any assessments are the personal obligation of the Veteran purchaser, his successors, heirs and assigns. Any lien imposed by the restrictive covenants does not affect the Veterans Land Board's interest in the property.

Section 5.02 Non-Profit Corporation. The Woods at Mountain Springs Property Owners Association, Inc., a non-profit corporation, has been (or will be) organized and it shall be governed by the Articles of Incorporation and Bylaws of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

Section 5.03 Bylaws. The Association has adopted or may adopt whatever Bylaws it may choose to govern the organization or operation of the Subdivision and the use and enjoyment of the Tracts and Common Areas, provided that the same are not in conflict with the terms and provisions hereof.

Section 5.04 Owner's Right of Enjoyment. Every Owner shall have a beneficial interest of use and enjoyment in and to the Common Areas and such right shall be appurtenant to and shall pass with the title to every assessed Tract, subject to the following provisions:

- (a) the right of the Association, with respect to the Common Areas, to limit the number of guests of Owners;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Areas;
- (c) the right of the Association, in accordance with its Articles and Bylaws (and until 70% of all tracts in the Subdivision are sold, subject to the prior written approval of the Developer), to (i) borrow money for the purpose of improving and maintaining the Common Areas and facilities (including borrowing from the Developer or any entity

affiliated with the Developer) and (ii) mortgage said property, however, the rights of such mortgagee of said property shall be subordinate to the rights of the Owners hereunder;

(d) the right of the Association to suspend the Member's voting rights and the Member's and "Related Users" (as hereinafter defined) right to use any recreational facilities within the Common Areas during any period in which the Maintenance Charge or any assessment against his Tract remains unpaid;

(e) the right of the Association to suspend the Member's voting rights and the Member's and Related Users' right to use any recreational facilities within the Common Area, after notice and hearing by the Board of Directors, for the infraction or violation by such Member or Related Users of this Declaration or the "Rules and Regulations", as hereinafter defined, which suspension shall continue for the duration of such infraction or violation, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation.

ARTICLE VI MAINTENANCE FUND

Section 6.01 Maintenance Fund Obligation. Each Owner of a tract by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agrees to pay to the Association a monthly maintenance charge (the "Maintenance Charge"), and any other assessments or charges hereby levied. The Maintenance Charge and any other assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Tracts and shall be a continuing lien upon the property against which each such Maintenance Charge and other charges and assessments are made.

Section 6.02 Basis of the Maintenance Charge.

(a) The Maintenance Charge referred to shall be used to create a fund to be known as the "Maintenance Fund", which shall be used as herein provided; and each such Maintenance Charge (except as otherwise hereinafter provided) shall be paid by the Owner of each Tract (or residential building site) to the Association. The Maintenance Charge for the year of purchase shall be pro-rated at closing and then shall be paid annually, in advance, on or before the first day of the first month of each calendar year. Provided, however, that if an Owner owns more than one tract in the Subdivision, such Owner shall pay only twice the assessment of one (1) Tract no matter how many Tracts are owned. In the event an Owner obtains consent from the Committee for a Composite Building site pursuant to Section 3.02 hereof, such Composite Building Site shall, for this purpose, be considered one Tract beginning upon the completion of the improvements thereon.

(b) Any Maintenance Charge not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the

rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the hereinafter described lien against the Owner's Tract. No Owner may waive or otherwise escape liability for the Maintenance Charge by non-use of any Common Areas, if any, or recreational facilities available for use by Owners of the Subdivision or by the abandonment of his Tract.

(c) The exact amount of the Maintenance Charge applicable to each Tract will be determined by the Developer. All other matters relating to the Maintenance Charge and the collection, expenditures and administration of the Maintenance Fund shall be determined by the Developer or the Board of Directors of the Association, subject to the provision hereof.

(d) The Association, from and after the Control Transfer Date, shall have the further right at any time, with a majority vote of all association members, to adjust or alter said Maintenance Charge from year to year as it deems proper to meet the reasonable operation expenses and reserve requirements of the Association in order for the Association to carry out its duties hereunder.

Section 6.03 Creation of Lien and Personal Obligation. In order to secure the payment of the Maintenance Charge, and other charges and assessments hereby levied, each Owner of a Tract in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a contractual lien on such Tract which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property Code (and any successor statute); and each such owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of written instrument executed by the President or any Vice-President of the Association and file for record in the Real Property Records of Cooke County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of foreclosure sale as provided by the Texas Property Code as then amended. Upon request by Association, Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended, and shall convey such Tract to highest bidder for cash by the General Warranty Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant

at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of non-payment by any Owner of any Maintenance Charge or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon ten (10) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 6.03 to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property code hereafter, the President or any Vice-President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to this Declaration filed in the Real Property Records of Cooke County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

Section 6.04 Notice of Lien. In addition to the right of the Association to enforce the Maintenance Charge or other charge or assessment levied hereunder, the Association may file a claim or lien against the Tract of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of amount of the claim of delinquency, (c) the interest and costs of collection which have accrued thereon, (d) the legal description and street address of the Tract against which the lien is claimed and (e) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such release of lien instrument.

Section 6.05 Liens Subordinate to Mortgages. The lien described in this Article VI shall be deemed subordinate to a first lien or other liens of any bank, insurance company, savings and loan association, university, pension and profit sharing trusts or plans, or any other third party lender, including Developer, which may have heretofore or may hereafter lend money in good faith for the purchase or improvement of any Tract and any renewal, extension, rearrangement or refinancing thereof. Each such mortgagee of a mortgage encumbering a Tract who obtains title to such Tract pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall take title to the Tract free and clear of any claims for unpaid Maintenance Charges or other charges of assessments against such Tract which accrued prior to the time such holder acquired title to such Tract. No such sale or transfer shall relieve such holding

acquiring title to a Tract from liability for any Maintenance Charge or other charges or assessments thereafter becoming due or form the lien thereof. Any other sale or transfer of a Tract shall not affect the Association's lien for Maintenance Charges or other charges or assessments. The Association shall make a good faith effort to give each such mortgagee sixty (60) days advance written notice of the Association's proposed foreclosure of the lien described in Section 6.01 hereof, which notice shall be sent to the nearest office of such mortgagee by prepaid United States registered or Certified mail, return receipt requested, and shall contain a statement of delinquent Maintenance Charges or other charges or assessments upon which the proposed action is based provided, however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VI.

Section 6.06 Purpose of the Maintenance Charge. The Maintenance Charge levied by the Developer or the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners of the Subdivision, subject to the jurisdiction of the Association. In particular, the Maintenance Charge shall be used for any improvement or services in furtherance of these purposes and the performance of the Association's duties described in Article VIII, including the maintenance of any Common Areas, any Drainage Easements and the establishment and maintenance of a reserve fund for maintenance of any Common Areas. The Maintenance Fund may be expended by the Developer or the Association for any purposes which, in the judgment of the Association, will tend to maintain the property values in the Subdivision, including, but not limited to, providing funds for the actual cost to the Association of all taxes, insurance, repairs, energy charges, replacement and maintenance of the Common Area as may from time to time be authorized by the Association. Except for the Association's use of the Maintenance Charge to perform its duties described in this Declaration and in the Bylaws, the use of the Maintenance Charge for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 6.07 Exempt Property. The following property subject to this Declaration shall be exempt from the Maintenance Charge and all other charges and assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area and; (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas; however, no land or improvements devoted to dwelling use shall be exempt from said Maintenance Charge.

Section 6.08 Handling of Maintenance Charges. The collection and management of the Maintenance Charge or other charge or assessment levied hereunder, shall be performed by the Developer until the control Transfer Date, at which time the Developer shall deliver to the Association all funds on hand together with all books and records of receipt and disbursements. The Developer and, upon transfer, the Association, shall maintain separate special accounts for these funds,

and Owners shall be provided at least annually information on the Maintenance Fund.

ARTICLE VII DEVELOPER'S RIGHTS AND RESERVATIONS

Section 7.01 Period of Developer's Rights and Reservations. Developer shall have, retain and reserve certain rights as herein set forth with respect to the Association and the Common Area from the date hereof, until the earlier to occur of (i) the Control Transfer date or (ii) Developer's written notice to the Association of Developer's termination of the rights described in Article VII hereof. The rights and reservations hereinafter set forth shall be deemed accepted and reserved in each conveyance of a Tract by Developer to an Owner whether or not specifically stated therein and in each deed or other instrument by which any property within the Common Area is conveyed by Developer. The rights, reservations and easements hereafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Developer's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration. Developer's consent to any one such amendment shall not be construed as a consent to any other or subsequent amendment.

Section 7.02 Right to Construct Additional Improvements in Common Area. Developer shall have and here by reserves the right (without the consent of any other Owner), but shall not be obligated, to construct additional improvements within the Common Area at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association and Owners, so long as such construction does not directly result in the increase of such Maintenance Charge. Developer shall, upon the Control Transfer Date, convey or transfer such improvements to the Association and the Association shall be obligated to accept title to, care for and maintain the same as elsewhere provided in this Declaration.

Section 7.03 Developer's Rights to Use Common Areas in Promotion and Marketing of the Property. Developer shall have and hereby reserves the right to reasonable use of the Common Area and of services offered by the Association in connection with the promotion and marketing of land within the boundaries of the Property. Without limiting the generality of the foregoing, Developer may erect and maintain on any part of the Common Area such signs, temporary buildings and other structures as Developer may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within the Property; may use vehicles and equipment within the Common Area for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Property, who are not Owners or Members of the Association, to use the Common Area at reasonable times and in reasonable numbers; and may refer to the services offered by the Association in connection with the development, promotion and marketing of the Property.

Section 7.04 Developer's Rights to Grant and Create Easements.

Developer shall have and hereby reserves the right, without the consent of any other Owner, or the Association to grant or create temporary or permanent easements, for access, utilities, pipeline easement, cable television systems, communication and security systems, drainage, and other purposes incidental to development, sale, operation and maintenance of the Subdivision, located in, on, under, over and across either (i) the Tracts, (ii) unsold Tracts owned by Developer, (iii) the Common Area, or (iv) existing utility easements. Developer also reserves the right, without the consent of any other Owner or the Association, to grant or create temporary or permanent easements for access over and across the streets and roads within the Subdivision.

Section 7.05 Developer's Rights to Convey Additional Common Area to the Association. Developer shall have and hereby reserves the right, buy shall not be obligated to, convey additional real property and improvements thereon, if any, to the Association as Common Area at any time and from time to time in accordance with this Declaration, without the consent of any other Owner or the Association.

**ARTICLE VIII
DUTIES AND POWERS OF THE PROPERTY OWNERS
ASSOCIATION**

Section 8.01 General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or though persons to whom the Board of Directors has delegated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the members, to maintain, improve and enhance the Common Areas and to improve and enhance the attractiveness, desirability and safety of the Subdivision. The Association shall have the authority to act as the agent to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the association as set forth in this Declaration.

Section 8.02 Duty to Accept the Property and Facilities Transferred by Developer. The Association shall accept title to any property, including any improvements thereon and personal property transferred to the Association by Developer, and equipment related thereto, together with the responsibility to perform any and all administrative functions and recreation functions associated therewith (collectively herein referred to as "Functions"), provided that such property and Functions are not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Developer may include fee simple title, easements, leasehold interests and licenses to use such property. Any property or interest in property transferred to the Association by Developer shall be within the boundaries of the Property. Any property or interest in property transferred to the Association by Developer shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all liens and mortgages

(other than the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, the terms of any declaration of covenants, conditions and restrictions annexing such property to the Common Area, and all easements, covenants, conditions, restrictions and equitable servitude or other encumbrances which do not materially affect the Owners authorized to use such property. Except as otherwise specifically approved by resolution of the Board of Directors, no property or interest in property transferred to the Association by the Developer shall impose upon the Association any obligation to make monetary payments to Developer or any affiliate of Developer including, but not limited to, any purchase price, rent, charge or fee. The property or interest in property transferred to the Association by Developer shall not impose any unreasonable or special burdens of ownership of property, including the management maintenance, replacement and operation thereof.

Section 8.03 Duty to Manage and Care for the Common Area. The Association shall manage, operate, care for, maintain and repair all Common Areas and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Areas shall include, but not be limited to the following: establishment, operation and maintenance of a security system, if any, for the Subdivision; management, maintenance, repair and upkeep of the subdivision entrances and other common areas.

Section 8.04 Other Insurance Bonds. The Association shall obtain such insurance as may be required by law, including workmen's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.

Section 8.05 Duty to Prepare Budgets. The Association shall prepare budgets for the Association, which budgets shall include a reserve fund for the maintenance of all Common Areas.

Section 8.06 Duty to Levy and Collect the Maintenance Charge. The Association shall levy, collect and enforce the Maintenance Charge and other charges and assessments as elsewhere provided in this Declaration.

Section 8.07 Duty to Provide Annual Review. The Association shall provide for an annual unaudited independent review of the accounts of the Association. Copies of the review shall be made available to any Member who requests a copy of the same upon payment by such Member of the reasonable cost of copying the same.

Section 8.08 Duties with Respect to Architectural Approvals. The Association shall perform functions to assist the Committee as elsewhere provided in Article IV of this Declaration.

Section 8.09 Power to Acquire Property and Construct Improvements. The Association may acquire property or an interest in property (including leases) for the common benefit of Owners including improvements and personal property. The Association may construct

improvements on the Property and may demolish existing improvements.

Section 8.10 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce rules and regulations ("Rules and Regulations"), fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Areas, and the use of any other property, facilities or improvements owned or operated by the Association.

Section 8.11 Power to Enforce Restrictions and Rules and Regulations. The Association (and any Owner with respect only to the remedies described in (ii) or (iii), below) shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board of Directors deems necessary or desirable to cause such compliance by each Member and each Related User. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and of Rules and Regulations of the Association by any one or more of the following means: (i) By entry upon any property within the Subdivision after notice and hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without notice (written or oral) to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the improvements situated thereon by the Owner or any other person), without liability by the Association to the Owner thereof, for the purpose of enforcement of this Declaration or the Rules and Regulations; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations; (iii) by exclusion, after notice and hearing, of any Member or Related User from use of any recreational facilities within the Common Areas during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or any Related User, unless the breach is a continuing breach in which case exclusion shall continue for so long as such breach continues; (iv) by suspension, after notice and hearing, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or a Related User of a provision of this Declaration or such Rules and Regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (v) by levying and collecting, after notice and hearing, an assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or a Related User which assessment reimbursed the Association for the costs incurred by the Association in connection with such breach; (vi) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or such Rules and Regulations by such Member or a Related User; and (vii) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Members, plus attorney's fees incurred by the Association with respect to exercising such remedy.

Before the Board may invoke the remedies provided above, it shall give registered notice of such alleged violation to Owner, and shall afford the Owner a hearing. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, the Developer, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default.

Section 8.12 Power to Grant Easements. In addition to any blanket easements described in this Declaration, the Association shall have the power to grant access, utility, drainage, and other such easements in, on, over or under the Common Area.

ARTICLE IX GENERAL PROVISIONS

Section 9.01 Term. The provisions hereof shall run with all property in the Subdivision and shall be binding upon all Owners and all persons claiming under them for a period of forty (40) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument (not prohibited hereby), signed by not less than two-thirds (2/3rds) of the then Owners of the Tracts has been recorded agreeing to amend or change, in whole or in part, this Declaration.

Section 9.02 Amendments. This Declaration may be amended or changed, in whole or in part, at any time by the written agreement or signed ballot of Owners (including the Developer) entitled to cast not less than two-thirds (2/3rds) of the votes of all of the Owners. If the Declaration is amended by a written instrument signed by those Owners entitled to cast not less than two-thirds (2/3rds) of all of the votes of the Owners of the Association, such amendment must be approved by said Owners within three hundred sixty-five (365) days of the date the first Owner executes such amendment. The date an Owner's signature is acknowledged shall constitute prima facie evidence of the date of execution of said amendment by such Owner. Those Members (Owners, including the Developer) entitled to cast not less than two-thirds (2/3rds) of all of the votes of the Members of the Association may also vote to amend this Declaration, in person, or by proxy, at a meeting of the Members (Owners, including the Declarant) duly called for such purpose, written notice of which shall be given to all Owners at least ten (10) days and not more than sixty (60) days in advance and shall set forth the purpose of such meeting. Notwithstanding any provision contained in the Bylaws to the contrary, a quorum, for purposes of such meeting, shall consist of not less than seventy percent (70%) of all of the Members (in person or by proxy) entitled to vote. Any such amendment shall become effective when an instrument is filed for record in the Real Property Records of Cooke County, Texas, accompanied by a certificate, signed by a majority of the Board of Trustees, stating that the required number of Members (Owners, including the Developer) executed the instrument amending

this Declaration or cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose. Copies of the written ballots pertaining to such amendment shall be retained by the Association for a period of not less than three (3) years after the date of filing of the amendment or termination.

Section 9.03 Amendments by the Developer. The Developer shall have and reserves the right at any time and from time to time, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, oversight, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or adversely affect the vested property or other rights of any Owner or his mortgagee. Additionally, Developer shall have and reserves the right at any time and from time to time, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of permitting the Owners to enjoy the benefits from technological advances, such as security, communications or energy-related devices or equipment which did not exist or were not in common use in residential subdivisions at the time this Declaration was adopted. Likewise, the Developer shall have and reserves the right at any time and from time to time, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of prohibiting the use of any device or apparatus developed and/or available for residential use following the date of this Declaration if the use of such device or apparatus will adversely affect the property values within the Subdivision.

Section 9.04 Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or un-enforceability or partial invalidity or partial un-enforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 9.05 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

Section 9.06 Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners, the Developer and their respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 9.07 Effect of Violations on Mortgages. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, the holder of any such lien or beneficiary of any such deed of trust; and any such mortgage, lien or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

Section 9.08 Terminology. All personal pronouns used in this Declaration and all exhibits attached hereto, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa. Title of Articles and Sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself. The terms "herein", "hereof" and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, section or article in which such terms appear.

VETERAN PURCHASER PARTIAL RELEASE

Notwithstanding anything contained in the Restrictions to the contrary, a Veteran Purchaser shall be entitled to have a one (1.00) acre Tract released from the Veterans Land Board for a homesite and same shall not be construed as a violation of the above Restrictive Covenants.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand of this 20 day of June, 1997.

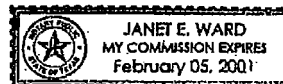
PROPERTIES OF THE SOUTHWEST, INC.

BY: Marcus Smith
MARCUS SMITH-PRESIDENT

STATE OF TEXAS *
COUNTY OF DALLAS*

This instrument was acknowledged before me on the 20 day of June, 1997, by MARCUS SMITH, President of PROPERTIES OF THE SOUTHWEST INC., a Delaware corporation, in the capacity therein stated, on behalf of said corporation.

Janet E. Ward
Notary Public, State of Texas



SECOND AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
THE WOODS AT MOUNTAIN SPRINGS

STATE OF TEXAS *

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF COOKE *

This Second Amendment to the Declarations of Covenants, Conditions and Restrictions of THE WOODS AT MOUNTAIN SPRINGS (hereafter "Restrictions" or "Declarations") which Declaration is recorded in Volume 980, Page 391 in the Official Public Records of Cooke County, Texas is made on the date herein set forth by PROPERTIES OF THE SOUTHWEST, INC., a Delaware Corporation, duly authorized to do business in the State of Texas ("Developer").

WITNESSETH

WHEREAS, This Amendment conforms with Article 9.03 of said Restrictions authorizing Developer to amend the Declarations at any time prior to the control transfer date without the consent of joinder of any owner for the purpose of correcting any oversight or ambiguity; and or inconsistency

WHEREAS, this Amendment is consistent with and in furtherance of the general planned scheme of development and does not impair or adversely affect any vested property or other right of any owner or his mortgagee and is executed and filed prior to the closing and conveyance of any lots within the subdivision.

NOW, THEREFORE, the Developer hereby amends the Declaration of Covenants, Conditions and Restrictions as follows:

Article III is amended by the addition of Section 3.14 as follows:

3.14 Re-subdivision The Term "Tract" as used herein shall mean a Tract as shown on the plat. No tract shall be re-subdivided without the prior written consent of 2/3 of the property owners, approval of the Lake Ray Roberts Zoning Commission and approval of the Cooke County Commissioners Court. After such approval and re-subdivision the term "Tract" shall mean any Lot resulting from any such re-subdivision. Nothing herein shall be construed to affect the duration of these Restrictions. Each individual Tract shall be subject to these Restrictions. date".

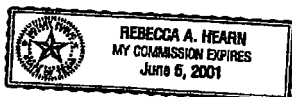
Except as amended herein, the Restrictions shall remain in full force and effect.
IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its
hand effective the 30 day of July, 1997.

PROPERTIES OF THE SOUTHWEST, INC.,
a Delaware Corporation

By: *Marcus Smith*
MARCUS SMITH, President

THE STATE OF TEXAS *
COUNTY OF DALLAS *

This instrument was acknowledged before me on this the 30 day of
July, 1997, by MARCUS SMITH, President of PROPERTIES OF THE
SOUTHWEST, INC., a Delaware Corporation, in the capacity therein stated, on behalf of said
Corporation.



Rebecca A. Hearn
NOTARY PUBLIC, STATE OF TEXAS
Notary's Name Printed:

My Commission Expires: _____

**BY-LAWS
OF
THE WOODS AT MOUNTAIN SPRINGS
PROPERTY OWNER'S ASSOCIATION**

**ARTICLE ONE
REGISTERED OFFICE**

1.01 The registered office of the Corporation is located at 3860 W. Northwest Hwy, Suite 230, Dallas, Texas 75220. The name of the registered agent of the Corporation at such address is Marcus Smith.

**ARTICLE TWO
DEFINITIONS**

2.01 As used in these By-Laws the following definitions shall apply:

(A) THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION: Those portions of the property described on Exhibit "A" as are included in any section of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION, as such sections are shown by plats of record among the Plat Records of Cooke County, Texas whether such plats are presently on record or are hereinafter to be recorded, so long as such properties are bound by any subdivision restriction promulgated by PROPERTIES OF THE SOUTHWEST, INC., its successors or assigns, which subdivision restrictions provided for the payment of assessments to PROPERTIES OF THE SOUTHWEST, INC. until assigned to the Corporation herein.

(B) MEMBERS:

1. Ownership of each lot in THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION shall entitle the owner thereof to one membership in the Corporation. Members of the Corporation shall include all those persons or entities who are voting members, non-voting members, or advisory members of the Corporation as provided below.

2. For purposes of these provisions, those persons who have purchased any of the lots in THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION under the provisions of any Contracts of Sale and Purchaser with the Veterans Land Board of the State of Texas shall be considered as "members" of the Corporation, and the State of Texas shall not be considered as a member of the corporation. In the case of any lots owned by two or more persons or entities other than one individual, the owner or owners thereof may designate one person in writing as the person eligible for memberships.

3. A person shall be considered as an owner of a lot in THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION only after such person has received legal title to such lot, or after legal title to such lots has been transferred by PROPERTIES OF THE SOUTHWEST, INC. (ITS SUCCESSORS OR ASSIGNS) to the individual, the entity, or the Veterans Land Board of the State of Texas.

(C) VOTING MEMBERS: All those persons or entities owning a lot or lots in THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION who are (a) current in the payment of any and all assessments due to PROPERTIES OF THE SOUTHWEST, INC. or the Corporation; (b) not otherwise default under any of the subdivision restrictions affecting such lot or lots in THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION; and (c) are current in all other dues or other obligations to the Corporation. PROPERTIES OF THE SOUTHWEST, INC., its successors or assigns, shall not be considered a voting member of the Corporation.

(D) NON-VOTING MEMBERS: Non-voting members of the Corporation shall be those members who are in arrears for more than thirty (30) days in the payment of any assessments to be provided for hereunder, or in the payment of any other dues or accounts of the Corporation, or in default in the performance of any of the obligations contained in any of the subdivision restrictions affecting THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION. However, no member shall be considered to be in default in the payment of any other dues or accounts, due to PROPERTIES OF THE SOUTHWEST, INC. or the Corporation, nor will they be considered to be in default in the performance of any other obligations under the subdivision restrictions of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION unless such member has been notified of such default by a written statement for at least thirty days. Notice shall be conclusively deemed as having been given if the notice has been deposited in the U.S. mails, with postage property prepaid, addressed to the last known address of the member as shown by the records of the Corporation.

(E) ADVISORY MEMBERS: PROPERTIES OF THE SOUTHWEST, INC., the developer of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION, its successors and assigns, shall be an advisory member of the Corporation. An advisory member of the Corporation shall not have the right to vote in any meeting of the Corporation, but shall be entitled to have a representative present at all meetings of the Corporation and at all meetings of the Board of Directors of the Corporation. The right of PROPERTIES OF THE SOUTHWEST, INC., its successors and assigns, to be considered an advisory member of the Corporation may not be revoked. The Board of Directors of the Corporation may

designate any other person or entity as an advisory member of the Corporation. If so designated, such advisory member of the Corporation shall serve as an advisory member for so long as the Board of Directors shall permit.

(F) A member shall be in default, as provided for herein, if such member shall have failed to pay any assessments to the Corporation, as provided for in any subdivision restrictions of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION, for more than thirty (30) days after the same shall become due. A member shall further be considered to be in default if he has violated any of the terms, conditions, or stipulations of the restrictions affecting THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION, or is in violation of any local, state, or federal law, order, rule, or regulation, has been notified of such violation, and has refused to correct such violation within thirty (30) days after the date such notice was sent.

ARTICLE THREE MEMBERS MEETINGS

3.01 All meetings of the members shall be held at the registered office of the Corporation or at any other place within or outside this state as may be designated for that purpose from time to time by the Board of Directors.

3.02 Annual meeting of the members. The annual meetings of the members shall be held each year at 7:00 p.m. on the first Monday in August. If this day falls on a legal holiday, the annual meeting shall be held at the same time on the next following business day.

3.03 Notice of meetings. Notice of the meeting, stating the place, date, and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given in writing to each member (whether voting, non-voting, or advisory) at least five (5) but not more than thirty (30) days before the date of the meeting either personally or by mail or other means of written communication addressed to the member at his address appearing on the books of the Corporation or given by him to the Corporation for the purpose of notice. Notice of adjourned meetings is not necessary until the meeting is adjourned for thirty (30) days or more, in which case notice of the adjourned meeting shall be given as in the case of any special meeting.

3.04 Special meetings. Special meetings of the members for any purpose or purposes whatsoever may be called at any time by the President, or by the Board of Directors, or by any two or more directors. Any special meeting must be called for specific purposes, which purposes shall be identified in the call of the meeting and notice of the meeting.

3.05 Quorum. Ten percent (10%) of the voting members constitutes a quorum for transaction of business. Once the presence of a quorum has been confirmed, business may continue despite any failure to maintain a quorum during the remainder of the meeting.

3.06 Voting. Only persons listed as voting members on the date of the meeting shall be entitled to vote at such meeting. Any non-voting members may elevate his status to a voting member by curing any default prior to the stated time of the meeting. Votes shall be apportioned by lots, i.e., each lot shall be entitled to one vote, and therefore, if any voting members owns two or more lots, he shall be entitled to the same number of votes as he shall own lots. There shall be no fractional voting, but rather, if a lot is owned by two or more persons, that lot shall be entitled to only one vote and shall not be entitled to split that vote, and the owners of such lot must, in writing, designate one of their members to be the voting member of the Corporation. A voting member may execute a written proxy granting to another voting member, or to an advisory member, the right to cast such voting member's vote at any meeting. A voting member may not grant a proxy to a non-voting member as defined in Article 2.01 D.

3.07 Presiding officer. All meetings of the membership shall be presided by the President of the Corporation, and shall be conducted in accordance with Roberts Rules of Order.

ARTICLE FOUR BOARD OF DIRECTORS

4.01 The management of the Corporation shall be vested in a Board of Directors consisting of three directors, which board shall have full power and authority to carry out the purposes of the Corporation and to do any and all lawful acts necessary or profitable thereto. The director shall act only as the board, and an individual director shall have no power as such. The powers of the Corporation shall be exercisable by the Board of Directors or under its authority, and the action of the President of the corporation shall be controlled by the Board of Directors, subject, however, to such limitations as are imposed by law, the Articles of Incorporation, or these By-Laws as to the actions to be authorized or approved by the members. The Board of Directors may, by contract or otherwise, give general or limited special power and authority to the officers and employees of the Corporation to transact the general

business, or any special business of the Corporation, and may give powers of attorney to agents of the Corporation to transact any special business required by such authorization.

4.02 The Directors shall be voting members of the corporation. The authorized number of directors of this Corporation shall be three. The directors need not be members of the Corporation. The number of directors may be increased or decreased from time to time by amendment to these By-Laws, but no decrease shall have the effect of shortening the term of any incumbent director. Any directorship to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of the members called for that purpose.

4.03 The first Board of Directors shall be appointed or selected by the initial Board of Directors and shall serve until the first annual meeting of the Property Owners Association next following the recording of the instrument executed by Developer evidencing transfer of control of the Association to the Association. The directors shall be elected annually by the voting members, and shall hold office until their respective successors are elected, or until their death, resignation, or removal.

4.04 Vacancies of the board of Directors may be filled by a majority of the remaining directors, or by the sole remaining directors. The voting members may elect a director at any time to fill any vacancy not filled by the directors. The entire Board of Directors or any individual director may be removed from office with or without cause by a vote of the majority of the voting members at any regular or special meeting of the members.

4.05 All meetings of the Board of Directors shall be held at the principal office of the corporation at such place within or outside the state as may be designated from time by resolution of the board or by written consent of the members of the board. Regular meetings of the Board of Directors shall be held, without call or notice, immediately following each annual meeting of the membership of the Corporation, and at such other times as the directors may determine.

4.06 Special meetings of the Board of Directors for any purpose shall be called at any time by the President, or if the President is absent or unable or refuse to act, by the Vice-President or by any two directors. Written notices of the special meetings, stating the time and in general terms the purpose or purposes thereof, shall be mailed ten (10) days prior to the meeting or personally delivered to each director not later than three (3) days before the day appointed for the meeting.

4.07 A majority of the authorized number of directors shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision done or made by a majority of the directors present shall be regarded as an act of the Board of Directors, unless a greater number is required by law or by the Articles of Incorporation.

4.08 Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, and with the same force and effect as the unanimous vote of the Directors, if all of the members of the board shall individually collectively consent in writing to the action.

4.09 A quorum of the directors may adjourn any directors' meeting to meet again at a stated hour on a stated day. Notice of the time and place where an adjourned meeting will be held need not be given to absent directors if the time and place is fixed at the adjourned meeting. In the absence of a quorum, a majority of the directors present at any directors' meeting, either regular or special may adjourn from time to time until the time fixed for the next regular meeting of the board.

4.10 The President, or in the President's absence, any director selected by the directors present, shall preside at meeting of the Board of Directors. The Secretary of the Corporation or, in the Secretary's absence, any person appointed by the presiding officer, shall act as Secretary of the Board of Directors.

4.11 Directors and members of the committee shall not receive any compensation for their services. They may receive reimbursement for actual expenses incurred only upon the submission of appropriate written evidence of such expenses incurred.

4.12 The Board of Directors may authorize the Corporation to pay expenses incurred by, or to satisfy a judgment or fine rendered or levied against, present or former Directors, officers, or employees of this Corporation as provided by Article 1296.22A of Title 32 of the Miscellaneous Corporation Act of the State of Texas.

ARTICLE FIVE OFFICERS

5.01 The officers of the Corporation shall be a President, a Vice-President, a Secretary, a Treasurer, and such assistants and other officers at the Board of Directors shall from time to time determine. Any two offices may be held by one person. All officers shall be elected by and hold office at the pleasure of the Board of Directors, which shall fix the compensation and tenure of all officers.

5.02 The officers of the Corporation shall have the power and duties generally ascribed to the respective offices, and such additional authority or duty as may from time to time be established by the Board of Directors.

ARTICLE SIX EXECUTION OF INSTRUMENTS

6.01 The Board of Directors may, in its discretion, authorize an officer or officers, or other person or persons, to execute any corporate instrument or document, or to sign the corporation name without limitation, except where otherwise provided by law, and such execution or signature shall be binding on the Corporation.

ARTICLE SEVEN MISCELLANEOUS

7.01 The Board of Directors, on behalf of the Corporation, shall have the authority to employ such agents or employees as the Board of Directors shall deem appropriate for carrying out the purposes of this Corporation.

7.02 There shall be no initiation fees for memberships in the Corporation. The Board of Directors shall have discretion over the disposition of any and all assessments paid as provided for in any of the subdivision covenants, restrictions, and requirements imposed on any lot in THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION. Subject to the approval of the majority of the voting members at a meeting of the membership duly convened, the Board of Directors may increase or decrease the assessments described in the subdivision restrictions, restrictive covenants, and conditions affecting any lot of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION as shown by recorded instrument filed for record in Cooke County, Texas. All of the provisions relating to such increases and decreases, and to such assessments, which are shown by recorded instruments affecting any lot of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION, or which may be hereinafter filed as to any subsequently created section of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION are hereby incorporated herein by reference as if stated in full.

7.03 The Board of Directors shall have the authority to appoint such committees to assist it in the managing of the Corporation as it shall deem appropriate, and to appoint to such committees either members or non-members of the Corporation. Such committees shall be of such number and serve such functions as the Board of Directors may determine; however, there shall always be created an Architectural Control Committee as is described in the subdivision restrictions, restrictive covenants, and conditions affecting any and all sections of THE WOODS AT MOUNTAIN SPRINGS SUBDIVISION as shown by recorded instruments in Cooke County, Texas.

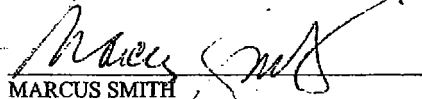
7.04 The Corporation shall not enter into any contract to pay and shall not pay, any salary or other remuneration to any officer, directors, or committee member for their services as such, nor in any other capacity regardless of the capacity in which they may act. However, nothing in this section shall prevent the Corporation from reimbursing any officer or director for actual expenses incurred by such director or officer in the performance of his duties.

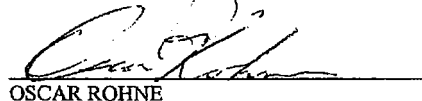
7.05 Any and all funds of the Corporation shall be deposited in a bank account owned by the Corporation. All demand withdrawal instruments and checks on such bank account shall bear the signature of at least two authorized persons, the identity of whom shall be made by the Board of Directors, and who may, but do not have to be members of the Corporation.

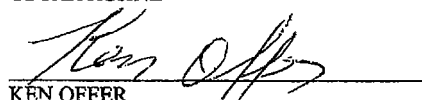
7.06 All books and records provided for by statute shall be open to inspection by the members at any reasonable time.

7.07 The power to alter, amend, or repeal these By-Laws is vested in the Board of Directors, subject to repeal or change by the action of the members.

ADOPTED by the Directors on this the 4 day of August, 1997.


MARCUS SMITH


OSCAR ROHNE


KEN OFFER