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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR NORTHLAKE HILLS, PHASE ONE.

STATE OF TEXAS This Document is being re-recorded to correct
Subdivision's Name §
COUNTY OF TRAVIS §

WHEREAS, SANDY CREEK INVESTORS, LTD., a Texas Limited partnership, hereinafter called "Declarant" is the owner of NORTHLAKE HILLS ~~PHASE ONE~~ SECTION *glw*

WHEREAS, the Property (as defined below) is located in the watershed of Lake Travis and contains habitat suitable for endangered species, and as such is environmentally sensitive. Lake Travis and its watershed, its geology, ground and surface waters, soils and other natural features, result in diversity, making Northlake Hills Phase One Subdivision suitable to accommodate building. Locations of the breeding areas of the endangered golden-cheeked warbler and black-capped vireo exist where the natural environment is hazardous and/or fragile and should not be disturbed, while other locations would be tolerant and suitable for the clearing of vegetation and building during the non-breeding season of the warbler and vireo or at any time in which surveys consistent with the U.S. Fish and Wildlife Service guidelines immediately prior to such activities reveal that no vireo or warbler territories are within 300 feet of the activities; and

WHEREAS, all of the Lots, except for one Commercial Lot and one Townhouse Lot, to be located in the Subdivision are currently intended to be developed for Single Family Residential Uses (capitalized terms have the meanings given herein); and

WHEREAS, the purpose of this Declaration is to preserve to the extent that the natural beauty and habitat of the Property; to avoid harsh contrasts between structures and landscape; to guard against the erection of poorly designed or proportioned structures or use of unsuitable materials; to encourage and secure the erection of attractive improvements which are harmonious with their sites; to encourage freedom of individual expression in the development of the land and the buildings, limited only to these protections which seem to be mutually advantageous; and in general, to enhance the environmental quality and economic value of the Property. To that end, Declarant desires to subject the Property to the covenants, conditions and restrictions hereinafter set forth.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) all of the Property shall be held, owned, encumbered, leased, used, sold, conveyed, occupied and enjoyed subject to the following covenants, conditions, restrictions, agreements, terms and provisions which are for the purpose of protecting the value and desirability of the Lots (as hereinafter defined) and other portions of the Property, (ii) the covenants, conditions, restrictions, agreements, terms and provisions of this Declaration shall run with the Property and shall be

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binding on, and shall inure to the benefit of, each and every person having the right, title, or interest in or to all or any portion of the Property, and their respective heirs, executors, administrators, successors, and assigns; and (iii) each contract, deed, lease, or Mortgage (as defined below) which may hereafter be executed with regard to all or any portion of the Property shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions, restrictions, agreements, terms and provisions regardless of whether or not the covenants, conditions, restrictions, agreements, terms and provisions of this Declaration are set out or referred to in said contract, deed, lease or Mortgage.

ARTICLE I DEFINITIONS

1.1 **Architectural Control Committee**: shall mean the committee created pursuant to Article VI hereof. Such Architectural Control Committee shall hereinafter sometimes be referred to as "ACC" or the "Committee".

1.2 **Architectural Control Committee Rules**: shall mean such rules as adopted from time to time by the ACC pursuant to the authority contained in Article VI hereof

1.3 **Assessment**: shall include Annual Assessments, Special Assessments, and Special Individual Assessments imposed by the Association under this Declaration.

1.4 **Assessment Unit**: shall have the meaning set forth in Section 5.5.

1.5 **Association or Propertyowner's Association**: shall mean the NorthLake Hills Propertyowners Association, Inc., a Texas non-profit corporation, which Declarant shall cause to be incorporated.

1.6 **Board**: shall mean the Board of Directors of the Homeowners Association.

1.7 **Commercial Lot**: shall mean a portion of the Development shown as a subdivided lot on a Plat other than a Residential Lot, Common Area, or a Lot designated for Townhouses ("Townhouse Lot") that is intended and designated for business or commercial use.

1.8 **Common Areas and Facilities**: shall mean (a) all portions of the Subdivision designated as common area on the Plat, (b) any and all lots, tracts or parcels of land designated by Declarant as common areas or for the benefit of the Owners and conveyed to the Association for the common benefit of the Owners, (c) any and all fencing and landscaping placed in or about the Subdivision by Declarant, (d) all easements (except public utility easements), rights-of-way, median strips, sidewalks, and other areas of the Property which service the Lots and are not maintained and repaired by a Governmental Authority, (e) any drainage, detention, filtration, and/or water quality facilities conveyed to the Association for operation and maintenance, (f) the private streets, roads, alleys and other thoroughfares or passageways and (g) all improvements, equipment, and other facilities located on any of the above described properties and owned, conveyed or assigned to the Association.

1.9 **Declarant:** shall mean Sandy Creek Investors, Ltd., a Texas limited partnership, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of Sandy Creek Investors, Ltd. as Declarant must be in writing. The mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.10 **Declaration:** shall mean the covenants, conditions, and restrictions herein set forth in this entire document, as the same may be amended from time to time.

1.11 **Development Area:** shall mean any part of the Development (less than the whole) that is the subject of a Plat, which Development Areas may be subject to Development Area Declarations in addition to being subject to this Declaration.

1.12 **Development Area Declaration:** shall mean, with respect to any Development Area, the separate instruments containing covenants, restrictions, conditions, limitations and/or easements, to which the property within such Development Area is subjected.

1.13 **Drainage Easements:** shall be the area designated on the Plat as drainage easements, as well as any future drainage easements duly recorded, and shall include any creeks, streams, sedimentation basins or bar ditches therein designated or constructed.

1.14 **Governmental Requirement:** shall mean all laws, statutes, codes, ordinances, rules and regulations of any government authority applicable to the Property and/or the use, enjoyment, operation, maintenance, or ownership of the Property.

1.15 **Improvements:** shall mean the buildings, garages, carports, streets, roads, antennas, driveways, parking areas, walls, hedges, plantings, planted trees and shrubs, lighting and all other Structures or Landscaping of every kind and type affecting the natural condition of the property or the drainage of surface waters on, across or from the land.

1.16 **Landscaping:** shall mean growing plants (including grass, vines, groundcover, trees, shrubs, flowers and bulbs) and related materials (including mulch, landscape edging and other materials used to fertilize, cultivate and sustain such growing plants), underground sprinkler irrigation systems, terraces, planters, screening walls, retaining walls, lights, wiring and lighting systems, and such other improvements for the landscaping and scenic enhancement of any of the Lots, any entry area into the Subdivision, or any other portion of the Property.

1.17 **Lake Areas:** shall mean the areas designated on the plat as Lake Travis.

1.18 **Lot or Lots:** shall mean each parcel of land shown as a lot on the recorded final Plat Map of the Property and designated on said map by a separate number, or any subsequent subdivision thereof.

1.19 **Member:** shall mean and refer to every person or entity who holds membership privileges in the Homeowner's Association.

1.20 **Mortgage:** shall mean any interest in any Lot provided as security for the performance of a duty or the payment of a debt.

1.21 **NorthLake Hills, Phase One, Subdivision:** or "**Subdivision**" shall mean all of subdivision, being 72.43 acres out of the Jeremiah Gregg Survey No. 603, Abstract No. 325, Samuel Hayford Survey No. 53, Abstract No. 2246, and Sam T. Scott Survey No. 39, Abstract No. 2200, situated in Travis County, Texas according to the plat thereof recorded in Volume 99, Page 129 of the Plat Records of Travis County, Texas (or any subsequently recorded plat thereof).

1.22 **Owner(s):** shall mean and refer to the record owner, whether one or more persons, associations or entities, of legal, equitable or beneficial title of or to any Lot. Owner shall include purchaser of a Lot under an executory contract for sale of real property. The foregoing does not include persons or entities who hold interest in any Lot merely for the security for the performance of an obligation. Any reference herein to Owners shall include Owners as defined herein and as defined or included in any Supplemental Declaration.

1.23 **Plans and Specifications:** shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including but not limited to those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

1.24 **Private Streets:** shall mean the streets, roads and alleyways within the Property herein described, leading to the Common Areas and Facilities, the remainder of the Property and ingress to and egress from the Lots.

1.25 **Property:** shall mean and refer to that certain real property described in Section 1.21 hereof, including the aerial and subsurface rights appurtenant thereto, and such additional properties thereto as may hereafter be annexed, or brought within this scheme in accordance with the provisions contained herein.

1.26 **Residential Lot:** shall mean and refer to a portion of the Development shown as a subdivided Lot on a Plat, other than a Common Area that is intended and designated solely for single-family residential use.

1.27 **Single Family Residential Use:** shall mean the occupation or use of a Structure as a residence or dwelling unit by a single person, a family or a family sized unit in conformity with this Declaration and the requirements imposed by applicable zoning laws or any other State,

County or Municipal laws, rules, regulations, codes or ordinances.

1.28 **Special Assessments**: shall have the meaning set forth in Section 5.10.

1.29 **Special Individual Assessment**: shall have the meaning set forth in Section 5.11.

1.30 **Structures**: shall mean anything erected, constructed, placed, laid or installed in, on, or over said real property, the use of which requires a location on or in the ground, but not including vegetation, trees, shrubs or plantings.

1.31 **Subdivision Map or Subdivision Plat**: or "**Plat Map**" or "**Plat**" shall mean a recorded map or plat covering any or all of the Property referred to in this Declaration, or annexed hereto.

1.32 **Supplemental Declaration**: shall mean any Supplemental Declaration of Covenants, Conditions, and Restrictions bringing or adding additional property within the scheme of this Declaration under the authority set out in Article III hereof. References herein (whether specific or general) to provisions set forth in "all (any) Supplemental Declaration" shall be deemed to relate to all property covered by this or any Supplemental Declaration(s).

1.33 **Townhouse Lot**: shall mean a Lot designated for the building of Townhouse units on a Plat.

1.34 **Townhouse Unit**: shall mean each individual townhouse designed to be sold separately.

1.35 **Visible From Neighboring Property**: shall mean that with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing on any part of a neighboring property. A neighboring property shall be any Lot with a common lot line, notwithstanding the intervention of a street, road, right-of-way or easement.

ARTICLE II GENERAL RESTRICTIONS

II.1 All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions.

(a) **Antennae: Satellite Dishes**: No exterior radio, television antenna or aerial or satellite dish greater than 21" in diameter shall be erected or maintained within the Property without the prior written approval of the Committee.

(b) **Insurance Rates**: Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without the prior written approval of the Board.

(c) **Subdividing**: Except as otherwise expressly provided in this Declaration, no Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Committee, provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, without the approval of the Committee.

(d) **Signs**: No signs of any kind shall be displayed in the public view on the Property without the prior written approval of the Committee, except for signs which are part of Declarant's overall marketing plan for the Property. The Committee may permit signs of any type advertising a portion of the Property for sale or lease and/or it may set standards for the same.

(e) **Rubbish and Debris**: No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. The ACC will set the standards by which the above conditions are met.

(f) **Noise**: No exterior speakers, horns, whistles, outside telephones, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any Residential Lot. No noise or other nuisance shall be permitted to exist or operate upon any of the Residential Lot so as to be offensive or detrimental to any other portion of the Property or to its occupants.

(g) **Construction of Improvements**: No Improvement may be constructed on, removed from or materially altered upon any portion of the Property without the prior written approval of the Committee.

(h) **Repair of Buildings**: All Improvements upon any portion of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

(i) **Alteration or Removal of Improvements**: The construction or material alteration of any Improvement on any Lot which in any way materially alters the exterior appearance of any Improvement, and/or the removal of any material portion of any Improvement on any Lot, shall be performed only with the prior written approval of the Committee.

(j) **Roofing Materials**: Except as permitted by the Committee in accordance with Section 6 below, reflective roofing materials shall not be permitted as part of any Improvement.

(k) **Driveway:** The Committee shall have the right to impose limitations on driveway design, including materials, aprons, location and point of contact with roads, streets or private driveways in the Subdivision.

(l) **Drainage:** There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provisions are made for proper drainage and are approved by the Committee.

(m) **Hazardous Activities:** No activities shall be conducted on the Property and no Improvements may be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property. Further, no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces, or in contained barbecue units while attended and in use for cooking purposes.

(n) **Temporary Structures:** No tent, shack or other temporary building, Improvement or Structure shall be placed upon any Residential Lot without prior written approval of the Committee; provided, however, that temporary structures necessary for storage of tools and equipment, restrooms and office space for architects, builders and construction crews, during the period of actual construction on a Lot only, may be maintained with the prior approval of Declarant or the Committee. Such approval shall address the nature, size, duration and location of such structures.

(o) **Mining and Drilling:** No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

(p) **Unightly Articles; Vehicles:** No article deemed to be unsightly by the Committee shall be permitted on any Lot so as to be Visible from Neighboring Property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks (other than pickup trucks and sport utility vehicles), boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Each single family residential structure within the Property shall have sufficient garage space, as approved by the Committee, to house all vehicles to be kept on the Lot. Lot Owners shall not keep more than two (2) automobiles in such manner as to be Visible from Neighboring Property for any period in excess of seventy-two (72) hours. No automobiles or other vehicles may be parked overnight for more than two (2) consecutive nights on any roadway within the Property. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash shall be kept,

stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

(q) Mobile Homes, Travel Trailers and Recreational Vehicles: No mobile homes shall be parked or placed on any Lot at any time (other than Temporary Structures approved by the Committee), and no travel trailers, recreational vehicles or similar vehicles shall be parked on any portion of the Property so as to be visible from neighboring property, as defined herein, or public or private thoroughfares for more than forty-eight (48) hours.

(r) Fences: No fence or barrier of any kind shall be constructed on the Property or on any Lot without the prior written consent of the Committee. The Committee may, in its discretion, prohibit the construction of any proposed fence, specify the height or location of the proposed fence, specify the materials of which any proposed fence must be constructed, or require that any proposed fence be screened by vegetation or otherwise so as not to be visible from other portions of the Property. In no event shall a fence be constructed below the 691' msl contour line.

(s) Animals - Household Pets: No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept or maintained on the Property. No more than three (3) domestic pets may be kept on any Lot. No domestic pet shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pet will be allowed on the Property other than on the Lot of its Owner unless confined to a leash or kept within approved fenced areas. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operations will be allowed. No domestic pet shall be allowed to run at large and all domestic pets shall be kept within approved fenced areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such approved fenced area shall be in accordance with plans previously approved by the Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be Visible from Neighboring Property.

(t) Clearing of Vegetation: Vegetation clearing activities must be conducted outside the vireo and warbler breeding season, unless surveys conducted consistent with U.S. Fish and Wildlife Service guidelines immediately prior to such activities reveal that no vireo or warbler territories are present within 300 feet of the activities. For purposes of this provision, the vireo breeding season is defined as March 15 through September 1, and the warbler breeding season is from March 1 through August 1. **There shall be no clearing of vegetation beyond that which has been cleared by Declarant to prepare the property for sale without the prior written consent of the ACC, as specified in section 6.4 herein.** Prior to commencement of clearing activities involving hardwood of greater than 6", Owner shall obtain any permits required by the City of

Jonestown, and shall otherwise be in conformance with all of City of Jonestown's ordinances concerning clearing and revegetation activities.

(u) **Lawns and Plantings:** Each Owner shall endeavor to use native plants, as much as possible, in the landscaping of each Lot, and areas that are disturbed during construction but not occupied by buildings or impervious surfaces must be replanted with native vegetation species, to provide additional benefit to the vireo and warbler. The ACC shall have the right to approve the removal and/or addition of trees, shrubs, hedges, ground cover and all other Landscaping.

(v)³ **Construction Activities:** Building construction may be conducted year round as long as the vegetation clearing activities associated with the Improvements are completed outside the vireo and warbler breeding season, unless surveys conducted consistent with Fish and Wildlife Service guidelines immediately prior to such activities reveal no vireo or warbler territories are present within 300 feet of the activities, in which case building construction can occur during this period. For purposes of this provision, the vireo breeding season is defined as March 15 through September 1, and the warbler breeding season is from March 1 through August 1. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Committee, at its sole discretion and in accordance with the terms and conditions of this Declaration, provided that such waiver shall be only for the reasonable period of such construction.

Prior to the construction of Improvements upon any Lot, Owner shall obtain approval from the ACC, in conformance with Article VI herein. Owner shall further obtain any necessary building permits and/or approvals from the City of Jonestown in accordance with any ordinances relating to such activities.

(w) **Residential Use of Lots:** With the exception of the Private Streets, any other Common Area and facilities, and the Commercial and Townhouse Lots, all Lots shall be improved and used solely for Single Family Residential Use inclusive of a garage, fencing and such other Improvements as are necessary or customarily incident to residential use, or for greenbelt, open space or other use approved by the Committee.

(x) **Building Height:** No Improvement(s) shall exceed twenty-eight (28) feet measured vertically from the undisturbed natural grade to the highest point of the building or structure, excluding spires, antennas, ventilators, chimneys, or other similar appurtenances. Undisturbed natural grade elevations shall be certified by a registered

architect, surveyor or engineer.

(y) **Dwelling Size:** Any single family residence constructed and built on each Waterfront Lot shall contain not less than 2000 square feet of enclosed living space, exclusive of porches (open or covered), decks, garages and carports. Any single family residence constructed and built on each non-waterfront Lot shall contain not less the 1500 square feet of enclosed living space, exclusive of porches (open or covered), decks, garages and carports.

(z) **Building Materials:** All building materials shall comply with federal, state and local law, rules and regulations and be approved by the Committee, and only new building materials (except for used brick) shall be used in constructing any Improvements. All projections from a dwelling or other structure, including but not limited to chimney flues, vents, gutters, down spouts, utility boxes, porches, railings and exterior stairways shall match the color of the surface from which they project, or shall be of a color approved by the Committee. No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including without limitation the exterior surfaces of any Improvements unless approved by the Committee. The exposed surface of the exterior walls of all single-family dwellings (exclusive of roofs, eaves, soffits, windows, gables, and trim work) shall be constructed of at least 75% masonry, stone or other materials specifically approved in writing by the Committee.

(aa) **Construction in Place:** All dwellings, Structures, and Improvements constructed on the Property shall be built in place on the Lot and the use of prefabricated materials shall be allowed only with the prior written approval of the Committee.

(bb) **Setback Requirements:** Without the prior written consent of the Committee, no dwelling, Structure, or Improvement shall (i) be located or erected nearer than 10 feet from any side Lot line, (ii) be located or erected nearer than 30 feet from any front Lot line, (iii) be located or erected nearer to any Lot line bordering a street right-of-way than is indicated by the building line shown on the Plat or (iv) be located within an easement (whether shown on the Plat or otherwise of record). For purposes of these covenants, no eaves, steps, or open porches shall be considered part of any building; provided, however, that this shall not be construed to allow any such structure to encroach upon another Lot. Under no circumstances may any dwelling be constructed below the 716' msl contour line of Lake Travis.

(cc) **Rentals:** Nothing in this Declaration shall be construed to permit the rental of any Lot and the Improvements thereon for residential purposes without the prior written approval of the Homeowner's Association.

(dd) **Unfinished Structures:** No house or other Structure shall remain unfinished for more than two (2) years after construction of the subject home or Structure has been

commenced.

(ee) **Boat Dock Standards:** An Owner of a residential waterfront Lot may have a private boat dock, no larger than permitted by applicable Governmental Requirements. The design and materials used in the construction of any boat dock must be approved by the Committee, in writing, prior to installation, and must be in compliance with all applicable Governmental Requirements. Boat docks must be maintained to a near-new condition, and in the event any Owner fails to do so, Declarant, the Association or the Committee shall have the right at any reasonable time to enter upon any Lot to replace, maintain or remove the boat dock located thereon and to charge the cost thereof to the Owner of the Lot.

(ff) **Deer Feeders:** No deer feeders will be allowed on any part of the Property.

(gg) **Use of Pesticides:** The use of organochlorine or organophosphate pesticides is prohibited. Further, the use of any other type of pesticide in a manner that is not in accordance with the manufacturer's directions, is prohibited.

(hh) **Compliance with Restrictions:** Each Owner shall comply strictly with the provisions of the restrictions as the same may be amended from time to time. Failure to comply with any of the restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages, injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

ARTICLE III ADDITIONAL LAND

III.1 **Additional Land:** The Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development of the Property (including, without limitation, subsequent sections of the NorthLake Hills Subdivision and all or portions of other subdivisions developed by Declarant or affiliated or subsidiary entities) without the consent or approval of Owners of any Lots (other than Declarant). As additional properties are subdivided, Declarant may, at its sole election, with respect to said properties, record supplemental Declarations which may incorporate this Declaration herein by reference, and which may supplement or modify this Declaration with such additional covenants, restrictions and conditions which may be appropriate for those properties. Upon recordation of such additional plats or maps and the filing of a supplemental Declaration containing restrictive covenants pursuant thereto, then and thereafter the Owners of all Lots in the Subdivision shall have the rights, privileges and obligations with respect to all Properties in the Subdivision (including such additional properties) in accordance with the provisions of, and to the extent set forth in, this Declaration and each such supplemental Declaration.

III.2 **Other Additions:** Upon the approval of the Association, in its sole discretion, the Owner of any other property who desires to add it to the scheme of this Declaration and to subject it to

the jurisdiction of the Association may file of record a supplemental Declaration as specified in the above subsection.

ARTICLE IV PROPERTY OWNERS ASSOCIATION

IV.1 The Association: Declarant shall cause the formation and incorporation of the Association as a non-profit corporation organized and existing under the Texas Non-Profit Corporation Act, charged with the duties and invested with the powers prescribed by law and set forth in its Articles of Incorporation, Bylaws, and this Declaration. The Association shall be managed by the Board pursuant to the procedures set forth in the Association's Articles of Incorporation and Bylaws, subject to this Declaration. Neither the Articles of Incorporation nor the Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

IV.2 Membership: Each Owner (whether one or more persons or entities) of a Lot shall, upon and by virtue of becoming such Owner, automatically become a Member of the Association and shall remain a Member thereof until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of each Lot and may not be separated from such ownership. Whenever the legal ownership of any Lot passes from one person to another, by whatever means, no instrument transferring membership in the Association is necessary, and no certificate of membership will be issued.

IV.3 Voting Rights: The right to cast votes, and the number of votes which may be cast, for all matters to be voted on by the Members shall be calculated as follows:

(a) Each Owner, excluding Declarant, of each Lot shall have one (1) vote for each Lot so owned. If there is more than one Owner of a Lot, all such Owners shall be Members, and the vote for such Lot may be exercised as the Owners mutually agree. However, in no event shall more than one vote per Lot be cast.

(b) Declarant shall have five (5) votes for each Lot owned by Declarant.

IV.4 Quorum for Membership Action: With respect to any annual or special "general" membership meeting of the Association, at the first call of such meeting, the presence at the meeting in person or by proxy of 66% of the total votes of the membership shall constitute a quorum. If the required quorum is not forthcoming, the meeting may be adjourned to a new date not more than seven (7) days from the current date and the required quorum at such meeting shall be one-half (½) the required quorum at the immediately preceding meeting. This procedure shall be continued until a quorum has been obtained; provided, however, that such reduced quorum shall not be applicable at a subsequent meeting held more than sixty (60) days following the originally scheduled meeting.

IV.5 **Board of Directors and Officers:** The affairs of the Association shall be conducted by the Board and such officers as the Directors may elect or appoint, in accordance with the Articles of Incorporation and the Bylaws, as the same may be amended from time to time.

IV.6 **Personal Liability:** No member of the Board, any committee of the Association, any Officers of the Association, or any member of the ACC shall be personally liable to any Owner, or any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board of Directors or any other representative or employees of the Association; provided, however, that such person has, upon the basis of such information as may be possessed by him, acted in good faith, and without willful or intentional misconduct.

IV.7 **Security:** THE ASSOCIATION SHALL NOT BE CONSIDERED TO HAVE A DUTY TO INSURE OR GUARANTEE THE SAFETY OF THE OWNERS IN THE SUBDIVISION OR TO BE A PROVIDER OF SECURITY SERVICES. WHETHER OR NOT SUCH SERVICES ARE PROVIDED BY THE ASSOCIATION, THE ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS, DAMAGE OR INJURY BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES AND SERVICES TAKEN OR PROVIDED. EACH OWNER, GUEST OR INVITEE ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS OFFICERS, DIRECTORS AND COMMITTEE MEMBERS ARE NOT PROVIDERS OF SECURITY SERVICES AND THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS AND COMMITTEE MEMBERS HAVE MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, RELATIVE TO ANY SECURITY MEASURES UNDERTAKEN WITHIN THE SUBDIVISION.

IV.8 **Power to Indemnify and to Purchase Indemnity Insurance:** The Association, acting through the Board, shall indemnify and may reimburse and/or advance expenses and/or purchase and maintain insurance, including errors and omission policies of insurance, or any other arrangement on behalf of any person who is or was a director or officer of the Association against any liability asserted against such person and incurred by such person in a capacity or arising out of his status as such a person to the maximum extent permitted by the Texas Non-Profit Corporation Act, as such Act may from time to time be amended. Further, the Association, acting through the Board, may indemnify and/or reimburse and/or advance expenses and/or purchase or maintain insurance on behalf of any person, other than a director of the Association, who is or was an officer, employee or agent of the Association or member of the ACC against any liability asserted against such person and incurred by such person in such a capacity, to such extent (or in the case of officers of the Association, to such further extent), consistent with applicable law, as the Board may from time to time determine. The provisions of this Section shall not be deemed exclusive of any other rights to which any such person may be entitled under any Bylaw, agreement, insurance policy, vote of Members or otherwise. All costs and expenses of the insurance and other arrangements described herein shall be deemed expenses of the Association and be covered by Assessments.

IV.9 **Condemnation:** If part or all of the Common Area shall be taken or condemned by any authority having the power of eminent domain, any compensation and damages shall be paid to the Association. The Board shall have the exclusive right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation issues affecting such Common Area. Such proceeds shall be added to the funds of the Association, and the Association shall decide on whether or not to replace or restore, as far as possible, the Common Area so taken or damaged. The Association shall give timely notice of the existence of such proceedings to all Owners and their mortgagees, if any. The expense of participation in such proceedings shall be common expenses and paid from Association dues.

ARTICLE V ASSESSMENTS

V.1 **Assessments:** Declarant, for each Lot owned by it within the Property, hereby covenants, and each Member and every Owner of a Lot, by acceptance of a deed thereto, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges; (2) Special Assessments, such Assessments to be fixed, established, and collected from time to time as hereinafter provided, and (3) Special Individual Assessments levied against individual owners to reimburse the Association for extra or unusual costs incurred by the Association for curing the Owner's violation of a restrictive covenant contained in this Declaration, as hereinafter provided. The Annual and Special Assessments, together with such interest thereon, reasonable attorney's fees and costs of collection thereof, as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment is made. Each such Assessment, together with such interest thereon, reasonable attorney's fees and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person or entity that was the Owner of such property at the time the obligation accrued.

V.2 **Purpose of Assessments:** The Assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members, and in particular, for the improvement, maintenance and operation of the Property, services and facilities devoted to this purpose and related to the use and enjoyment of the Property by the Members.

V.3 **Basis for Determining Amount of Assessment:** The amount of Annual Assessments for both improved and unimproved Lots shall be determined based on current maintenance costs and anticipated needs of the Association during the year for which the Assessment is being made. The amount of such annual Assessments as determined by the Board shall be final and binding so long as such determination is made in good faith.

V.4 **Amount of Annual Assessment:** The Board shall levy Assessments on a ratable basis against each "Assessment Unit" as defined below.

V.5 **Assessment Units:** Each Residential Lot shall constitute one "Assessment Unit." Each

under this Declaration. The amount of any Special Assessment shall be at the reasonable discretion of the Board.

V.11 Special Individual Assessments: The Association may levy Special Individual Assessments whenever the Association or the Board is entitled to reimbursement by, or to charge, the Owner of any Lot or Townhouse Unit with any costs or expenses incurred with respect to the subject Owner, Lot or Townhouse Unit.

V.12 Date Due for Assessments: The Annual Assessment referred to above shall be due within thirty (30) days from the date the amount of such Annual Assessment is set by the Board of Directors.

V.13 Late Charges: If any Assessment, whether an Annual Assessment, Special Assessment or Special Individual Assessment is not paid by the due date, the Owner responsible for the payment may be required by the Board, at the Board's election, to pay a late charge in such amount as the Board may designate; however, such charge shall never exceed the maximum charge permitted under applicable law.

V.14 Owner's Personal Obligation for Payment of Assessments: Each Annual Assessment, Special Assessment, and Special Individual Assessment provided for herein shall be the personal and individual debt of the Owner of the Lot or Townhouse Unit against which such Assessment was levied. No Owner may exempt himself from personal liability for such Assessments.

V.15 Default: In the event of default in the payment of any Assessment, the Owner of the Lot or Townhouse Unit against which such Assessment was levied shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof together with all costs and expenses of collection, including without limitation reasonable attorneys' fees.

V.16 Assessment Lien and Foreclosure: To the extent permitted by applicable Governmental Requirements, the payment of the Assessments levied in accordance with this Declaration against each Lot or Townhouse Unit, together with interest thereon and the costs and expenses of collection, is secured by, and there is hereby reserved, created and granted, a continuing lien and charge on and against each and every Lot or Townhouse Unit to secure payment of the Assessments levied against the subject Lot or Townhouse Unit in accordance with this Declaration. The lien reserved, granted and created by this Declaration against a Lot or Townhouse Unit for payment of Assessments shall bind and attach to the Lot or Townhouse Unit and shall be valid and subsisting against the Lot or Townhouse Unit, the Owner of such Lot or Townhouse Unit and such Owner's heirs, devisees personal representatives, successors or assigns, and shall be superior to all other liens and charges against such Lot or Townhouse Unit, except for (i) tax liens, (ii) all sums unpaid on any obligations evidencing sums owing or borrowed for the purchase of such Lot or Townhouse Unit and secured by a valid and enforceable Mortgage covering the subject Lot or Townhouse Unit, and (iii) all sums unpaid on any obligations incurred or borrowed for the improvement of such Lot or Townhouse Unit and

secured by a valid and enforceable Mortgage covering the subject Lot or Townhouse Unit, provided that the lien of any such Mortgage in (i) or (ii) above shall be superior to the lien created above only with respect to Assessments becoming due after the date the subject Mortgage was recorded in the Real Property Records of Travis County, Texas. The Association shall have the power, in the Board's sole and absolute discretion to subordinate the lien created by this section against any Lot or Townhouse Unit to any other lien. Any such subordination shall be signed by an officer of the Association and recorded in the Official Records of Travis County, Texas. Upon the written request of any beneficiary holding a lien on any Lot or Townhouse Unit that is superior to the lien for payment of Assessments as provided herein, the Association shall report to said beneficiary the amount of any Assessments levied against such Lot or Townhouse Unit remaining unpaid for a period of more than thirty (30) days after the same are due.

V.17 Notice of Assessment Lien: To evidence the aforesaid lien for payment of Assessments, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, a description of the Lot or Townhouse Unit encumbered by the lien and the name of the Owner of such Lot or Townhouse Unit. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Real Property Records of Travis County, Texas. The aforesaid lien for payment of Assessments shall attach with the priority set forth above from the date the payment of such Assessments becomes due. The Association may enforce such lien by the foreclosure sale of the defaulting Owner's Lot in like manner as a foreclosure of a mortgage or contractual lien on real property as provided in Section 51.002 of the Texas Property Code, as the same may be amended from time to time, or the Association may institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for the judicial foreclosure of the aforesaid lien. The Owner of the affected Lot shall be required to pay all costs and expenses, including without limitation, reasonable attorneys' fees, incurred by the Association in connection with any collection proceeding, whether judicial or non-judicial, and in connection with any collection proceeding. The Association shall have the power to bid on any Lot or Townhouse Unit at any foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same.

V.18 Assessment Lien Priority: The liens for payment of Assessments provided for herein shall not be affected or extinguished by the sale or transfer of any Lot or Townhouse Unit, whether by judicial or non-judicial foreclosure sale or otherwise; provided, however, that in the event of foreclosure of the lien of any Mortgage superior to the lien for the delinquent Assessment, the lien for the delinquent Assessment will be extinguished, and the delinquent Assessment shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the first lien Mortgage. The extinguishing of any lien for payment of Assessments as herein provided will not relieve any Owner from the obligation to pay Assessments subsequently becoming due and payable or affect or impair the lien created and reserved under this Declaration to secure payment of any such Assessments.

ARTICLE VI ARCHITECTURAL CONTROL

VI.1 Members and Duties of the Committee: The Committee shall be composed of not more than three (3) persons. The following persons are hereby designated as the initial members of the Committee: Joseph Woskow, Beth Woskow, and James Quinn.

VI.2 Bases for Committee Review: The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such duties assigned to it by this Declaration. The Committee shall review Plans and Specifications submitted for its review and such other information as it may require relating to the question of whether any proposed Improvement would unreasonably obstruct the view from other portions of the Property. The Committee will recommend, where appropriate and where no undue hardship will incur to the Owner, that the Owners make Improvements on the Residential Lots, such that the houses built are staggered, as opposed to directly adjacent to each other in order to create an aesthetically pleasing appearance. The Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth herein and any rules or guidelines adopted by the Committee from time to time, and the decision of the Committee shall be final and binding so long as it is made in good faith. The Committee may hire consultants, including engineers and architects, to assist it in its duties hereunder. The Committee, and its agents and employees, shall not be responsible for inspecting any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval of any Improvement as to structural integrity, safety, engineering soundness or conformance with any building or other codes, regardless of the hiring by the Committee of any consultants to assist it in its duties hereunder.

VI.3 Terms: The initial members of the Committee shall hold membership until either (1) Declarant has sold 70% or more of the Lots owned by Declarant, and at that time the Association votes to remove a Committee member and replace that Committee member with one elected by the Association, or (2) the Committee member resigns, in which case the Association shall be vested with the authority to either elect or appoint a replacement Committee member.

VI.4 Review of Construction, Alteration or Removal of Developments: Whenever in this Declaration the approval of the Committee is required, the Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts, materials, construction samples, reports and other information which it considers, in its sole discretion, to be relevant. As provided herein, prior to commencement of any construction, removal or material alteration of any Improvement or Landscaping on any Lot, the Plans and Specifications therefor shall be submitted to the Committee, and such construction, alteration or removal may not commence unless and until the Committee has approved such Plans and Specifications in writing. The Committee must approve in writing all of the following projects: construction of any building, fence, wall, or other structure, any exterior addition, change, or alteration in any building, fence, wall, or other structure, and any vegetation clearing, landscaping or grading of any Lot or Lots. All such construction, alterations or

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removal must conform to the approved Plans and Specifications.

VI.5 Procedure for Review of Improvements by Committee: An Owner, other than Declarant, proposing to construct or place, or remove or alter in any material way, any Improvement or any Landscaping on any Lot shall submit an application to the Committee together with three (3) sets of the Plans and Specifications for such construction, removal or alteration, and the application fee described herein below. The Committee shall review applications for proposed work in order to ensure conformity of the proposal with these covenants, conditions, and restrictions, and other regulations which may be adopted from time to time, and to ensure harmony of external design in relation to surrounding structures and topography. Within thirty (30) days after receipt by the Committee of such Plans and Specifications, it shall act on the Plans and Specifications as follows:

(a) The Committee may request in writing that the Owner submit to it such additional materials, construction samples, reports and information that the Committee considers relevant in reviewing the Plans and Specifications for compliance with this Declaration and the Development Agreement. Until receipt by the Committee of all information requested by it, it may postpone review of such Plans and Specifications. Upon receipt of all such information requested by it, the Committee shall act upon such Plans and Specifications within thirty (30) days.

(b) If the Committee approves such Plans and Specifications, it shall mark all sets of the Plans and Specifications "Approved" with the date thereof, and retain one set for its records and return two sets to the Owner. The Owner must commence construction of the Development or activity shown in approved Plans and Specifications within ninety (90) days of the Committee's approval thereof or such approval shall lapse. Upon written request of an Owner, the Committee may grant up to two (2) thirty (30) day extensions of such approval.

(c) If the Committee disapproves such Plans and Specifications, it shall mark all sets of the Plans and Specifications "Disapproved" with the date thereof, and retain one set for its records and return two sets to the Owner, with a written statement of all of the items that were found not to comply with this Declaration and/or the Development Agreement. Thereafter, the Owner shall submit to the Committee three (3) revised sets of Plans and Specifications, with notations thereon sufficient to identify the revised portions, and the Committee shall act on such revised Plans and Specifications within thirty (30) days after receipt by it of such revised Plans and Specifications and all information requested by it as provided herein with respect to initial Plans and Specifications.

(d) If the Committee fails to act on any Plans and Specifications submitted to it within thirty (30) days after receipt by the Committee of all information requested by it in connection with such Plans and Specifications, approval of the

matters submitted to it shall be presumed.

VI.6 Application Fee: The Committee shall establish and may thereafter amend from time to time an application fee that shall be paid in cash by each Owner at the time of submittal of any application and Plans and Specifications to the Committee. Such fee may be in different amounts based upon the activity proposed in such application. Such fee shall not exceed the reasonable cost and expenses of the Committee for the processing and review of Plans and Specifications and the reasonable costs and expenses of any consultants hired by the Committee as provided herein.

VI.7 Exterior Maintenance: If an Owner of any Lot fails to maintain the premises in a neat and orderly manner, the Developer or the Committee shall have the right, but not the obligation, through its agents, representatives and employees, to enter the Lot in order to repair, maintain, and restore the Lot, including Landscaping, and the exterior of any buildings and other Improvements located on the Lot, and levy the amount of the cost thereof as a Special Individual Assessment against the Lot upon which such repair, maintenance, and/or restoration was performed.

VI.8 No Waiver: The approval or consent of the Committee to any Plans and Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatsoever, subsequently or additionally submitted for approval or consent by the same or a different Owner.

VI.9 Variances: The Committee may grant variances from compliance with any of the covenants, conditions, restrictions or provisions of this Declaration with respect to any Improvements constructed or to be constructed on a Lot, or any use or condition of any Lot when (i) the specific section of this Declaration with respect to which the variance is to be granted states (expressed or implied) that the Committee may modify the restrictions imposed under the subject section of this Declaration, approve or otherwise consent to a variance or waiver of the provisions of the subject action of this Declaration, or consent to an Improvement, use or condition which does not conform with, or conflicts with, the restrictions imposed under the subject section of this Declaration, (ii), a specific section of this Declaration prohibits or restricts the requested Improvement, use or condition without the prior approval or consent of the Committee, or (iii) in the opinion of the Committee, such variances will not be materially adverse to the overall quality of the Property and any other Improvements in the development, or is justified due to unusual or aesthetic conditions, topographic considerations or similar circumstances; provided, however, that the Committee shall not permit or grant any such variance which would in any way violate or cause the Lot(s) or the Owner(s) to fail to comply with any Governmental Regulation. Such variances must be evidenced in writing and must be signed by at least a majority of the members of the Committee. In the event a requested variance requires any license, permit, consent or approval of a government authority or other evidence of compliance with a Governmental Regulation, the Committee may grant the variance subject to and conditioned upon the Owner requesting such variance obtaining such required license,

permit, consent or approval of the government authority or providing evidence of compliance with any such Governmental Regulation. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter of which the variance was granted. The granting of a variance in accordance with the provisions of this Section shall not operate to waive any of the covenants, conditions, restrictions or provisions of this Declaration for any purpose except for the particular purpose(s) of the subject variance and only as to the Lot or Lots with respect to which the subject variance was granted.

VI.10 Non-Conforming or Non-Approved Development: The Committee, at its option, may inspect all work in progress to ensure compliance with approved Plans and Specifications. The Committee may require any Owner to restore such Owner's Lot to the condition existing prior to construction, alteration or removal of any Improvement or Landscaping thereon, including without limitation the demolition and removal of any non-approved or non-conformed Improvement or Landscaping, if such Improvement or Landscaping was constructed or altered in violation of this Declaration. In addition, the Committee may, but has no obligation to, cause such restoration, demolition and removal of any such Improvement or Landscaping,

VI.11 Non-Liability of Committee: Notwithstanding anything to the contrary in this Declaration, neither the Committee nor the members thereof, the Association, Board, or any other Lot Owner or Member of the Association, nor such entities' and persons' respective agents, employees, heirs, successors, legal representatives and assigns shall be liable to any Owner or any third party due to the construction of any Improvement within the Property or the creation thereby of an obstruction to the view from any Lot or Lots.

VI.12 Actions of the Committee: The Committee may, by resolution unanimously adopted in writing, designate one or two of its members, or an agent acting on its behalf, to take any action or perform any duties for and on its behalf. In the absence of such designation, the vote of a majority of all of the members of the Committee taken at a meeting shall constitute an act of the Committee.

VI.13 Adoption of Rules: The Committee may adopt such procedural and substantive rules, including but not limited to design guidelines, not in conflict with the provisions of this Declaration, as it may deem necessary or proper for the performance of its duties, including, but not limited to, a building code, a housing code, a fire code, a landscaping code, and other similar codes as may be deemed necessary and desirable. Any and all rules adopted by the Committee may be amended, repealed or otherwise modified at any time and from time to time by the Committee.

VI.14 Nondiscrimination: In performing, observing and carrying out its duties, obligations, rights, powers and privileges under this Declaration, the Committee shall (a) act in a nondiscriminatory manner as to each Owner, (b) shall apply the provisions of this Declaration and any of the rules adopted by the Committee in a uniform and consistent basis to all Owners, Lots and Improvements, and (c) shall not act in a manner which is unreasonable or arbitrary.

VI.15 Address: Plans and Specifications shall be submitted to the Committee at the current address of the Board, or such other address as may be designated from time to time in writing by the Committee.

VI.16 Governmental Agency Approval: Nothing in this Declaration shall relieve or be interpreted as purporting to relieve any Owner from also securing such approval(s), certificate(s), or permit(s) of any governmental agency or entity with jurisdiction as may be required by law as a condition to the commencement, construction, maintenance, addition, change or alteration to or of any Improvement, and the Committee may require that a copy of such approval(s), certificate(s) or permit(s) be provided to the Committee as a final condition to approval of proposed Plans or Specifications and/or as additional insurance to the Committee that the Improvements and uses of an approved Plans and Specifications meet Governmental Regulations, or for both such purposes.

ARTICLE VII COMMON AREAS, EASEMENTS, AND PRIVATE STREETS

VII.1 Common Areas: All Common Areas within the Property shall be conveyed to the Association free of any liens prior to the conveyance of the first Lot by the Declarant. The Association shall own all Common Areas in fee simple and assume all maintenance obligations with respect to any Common Areas which may be hereafter established. Nothing contained herein shall create an obligation on the part of Declarant to establish any Common Area. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

VII.2 Use: The Common Area and Facilities may only be used for activities and purposes permitted under this Declaration and the Plat and, to the extent not in conflict with this Declaration or the Plat, those activities and purposes permitted by the Association.

VII.3 Liability of Owners for Damage to Common Area and Facilities: No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Common Area and facilities without the prior written approval of the Board of Directors of the Association. Each Owner shall be liable to the Association for any and all damages to (i) the Common Area and facilities, or (ii) to any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damage is caused by the neglect, misuse or negligence of such Owner or such Owner's family, guests or invitees, or by any tenant or other occupant of such Owner's Lot, or any guest or invitee of such Tenant. The full cost of all repairs of such damage shall be an Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectible in the same manner as provided for in this Declaration, including but not limited to foreclosure of such lien.

VII.4 Reserved Rights and Easements: All dedications, limitations, restrictions and

reservations shown or noted on the Plat, and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant prior to any portion of the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the existing easements and restrictions for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or entity, to (i) grant, dedicate, reserve or otherwise create rights-of-way and easements for public utility purposes in favor of any person or entity, along and on either or both sides of any Lot line, which said easement shall have a maximum width of 5 feet on each side of such Lot line, and (ii) locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas owned by Declarant sewer and other pipelines, conduits, wires and any Improvements relating to a public utility function, with the right of access to the same at any time for the purposes of repair and maintenance.

VII.5 Installation and Maintenance of Public Utilities: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat. Within these easements, no structure, planting, fence or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or, in the case of drainage easements, may change or impede the direction of flow of water through drainage channels in such easements. The easement area of each Lot and all improvements in such area shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Neither the Association, Declarant nor any utility company using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, employees or servants to shrubbery, trees or flowers or other property of the Owners situated on the land covered by said easements.

VII.6 Easement of Ingress and Egress Across Lakefront: Each of the Owners of Lots 1 through 8 covenants to provide an easement of ingress and egress to other Owners of Lots and their invitees; such easement to extend between the tree-line of the Lot (approximately the 685' msl contour line), and the then-current level of Lake Travis. Nothing in this provision shall be construed so as to allow the use of this easement by other Owners of Lots, their guests or invitees to camp, picnic, or pursue any activities other than hiking and/or fishing.

VII.7 Drainage Easements and Patterns: Each Owner covenants to provide easements on such Owner's Lot for drainage and water flow, as contours of such Owner's Lot and the arrangement of Improvements approved by the Committee require. No Owner of any Lot, except for Declarant, may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically and without limitation, no Owner of a Lot may:

- (a) alter, change or modify the existing natural vegetation of the drainage

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easements in a manner that changes the character of the original environment of such easements;

(b) alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements, or remove trees or other vegetation therefrom without the prior written approval of the Committee;

(c) construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements;

(d) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(e) place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

VII.8 Entry Easements: Declarant reserves for the Association and Declarant an easement across every Lot, and the Association and Declarant shall have the right to enter upon any Lot for any of the purposes stated in the Bylaws and/or in this Declaration in order to exercise, enjoy and carry out any and all of the rights and powers of the Association stated in the Bylaws and/or in this Declaration, subject to any limitations imposed by the Bylaws and/or this Declaration relating to the rights and powers of the Association. Entry upon any Lot shall not be deemed a trespass, and the Association and Declarant shall not be liable for any damage so created unless such damage is caused by the willful misconduct or negligence of the party against whom damages are sought to be collected.

VII.9 Temporary Completion Easement: All Lots shall be subject to a non-exclusive easement of ingress and egress for the benefit of Declarant and any person building or constructing any Improvements on any Lot, and their respective employees, subcontractors, successors and assigns, over, along, within and upon the front side and rear yards of each Lot as may be expediently necessary for the construction, servicing, and completion of Improvements and Landscaping upon any Lot adjacent thereto, provided that no damage or material inconvenience is incurred by other Lot Owners. Each Owner agrees to attempt and take care to minimize any inconvenience to other Lot Owners in the process of building or constructing any Improvements on the Owner's Lot.

VII.10 City Services Easements: An easement is hereby extended and acknowledged to all police, fire protection, ambulance, garbage and trash collector pickup vehicles and all similar persons to enter upon the Common Area and Lots in performance of their duties.

VII.11 Owner's Easements of Enjoyment: Each and every Owner shall have a non-exclusive right and easement in and to the Common Area and any facilities thereon and a non-exclusive

right and easement of ingress and egress to, from and through the Common Area and facilities, which non-exclusive rights and easements shall be appurtenant to and shall pass with title to each and every Lot, subject to the following provisions:

- (a) the right of the Association to establish and publish rules and regulations governing the use of the Common Area and facilities affecting the health, safety and welfare of Members;
- (b) the right of the Association to suspend the right of use of the Common Area and facilities and the voting rights of any Owner for any period during which any Assessment against the subject Owner's Lot remains unpaid beyond the period in which such Assessment is due, and for a period not to exceed sixty (60) days for any other infraction of any of the restrictions by the subject Owner; and
- (c) the right of the Association, subject to the provisions of this Declaration or any of the restrictions, to dedicate or transfer all or any part of the Common Area and facilities, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by seventy-five percent or more of the Owners; provided, that no such dedication or transfer shall be effective unless an instrument is signed by Owners entitled to cast seventy-five percent (75%) or more of the votes of the Members and such instrument has been recorded.

VII.12 Easements Run With the Land: All of the rights of the easements granted and provided under this section are easements appurtenant to and running with each Lot; and any such easement shall at all times inure to the benefit of and be binding upon Declarant, each Owner and all their respective grantees, heirs, successors, personal representatives or assigns, perpetually and in full force.

VII.13 Private Streets: Declarant reserves for itself, the Association, each Owner, and the respective invitees of the Declarant, Owners, or the Association, hereinafter referred to as "Private Street Users", the right of access to the Private Streets, and a non-exclusive easement on, over, across and with respect to the Private Streets for the use and enjoyment of the Private Streets for vehicular and pedestrian access to the Lots, the other Common Area and facilities and the remainder of Property and ingress to and egress from the Lots, the other Common Area and facilities and the remainder of the Property. In no event shall any Private Streets User be permitted to use the Private Streets in any manner which is prohibited by or which would violate a Governmental Requirement. Additionally, no private street user may in any way remove, alter, damage or destroy any portion of the Private Streets. The Association shall have the power and authority to promulgate Rules regarding the use of the private streets and shall have the power and authority to enforce such rules. Declarant reserves for itself and the Association an easement on, over, across and under the Private Streets for the purpose of constructing, installing, maintaining, repairing, and replacing any Private Streets and maintaining, policing and protecting the Private Streets. No Owner or other Private Streets user shall be permitted to place

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any Improvements on any portion of the Private Streets. Neither Declarant nor the Association shall be liable for any damage done by either of them or their assigns, agents, employees, contractors or servants to any Landscaping, Improvements or other property of any Owner or person in connection with the construction, installation, repair maintenance, replacement policing and protecting of the Private Streets. Declarant will convey, with or without warranty, the Private Streets to the Association as part of the Common Areas and Facilities, subject to the conditions, covenants, restrictions, easements, terms and conditions of this Declaration and to any and all easements, restrictions, and other encumbrances of record in the Real Property Records of Travis County, Texas, to the extent in force and effect and binding on the Private Streets.

VII.14 Maintenance, Operation, and Repair of Private Streets: Following substantial completion by Declarant of the Private Streets, the utilities and improvements required to be constructed in connection with the approval of the Plat by the City, and the other Common Area and Facilities, the Association (i) shall be solely and exclusively responsible for the maintenance, repair, replacement, management and condition of the Private Streets, (ii) shall at all times maintain the Private Streets in good repair and order, (iii) shall be authorized to promulgate and adopt rules concerning the use, enjoyment, operation, management, maintenance, repair, replacement and improvement of the Private Streets, subject to the terms and conditions of this Declaration.

ARTICLE VIII GENERAL PROVISIONS

VIII.1 Attorney-in-Fact: Notwithstanding anything in this Declaration to the contrary, so long as Declarant owns any Lot, each Owner, by acceptance of record title conveying a Lot to such Owner, does hereby irrevocably constitute and appoint Sandy Creek Investors, Ltd, its true and lawful attorney-in-fact and agent to execute, acknowledge, verify, swear to, deliver, record and file in that Owner's name, place and stead all instruments, documents and certificates which may from time to time be required in order to affect any amendment, correction, vacating, replatting or other modification of the Plat, provided that (i) the boundaries of such Owner's Lot are not in any way changed, altered, or modified; (ii) access to such Lot to and from a public or Private Street is not changed or altered in any material way; (iii) the public utility services to such Owner's Lot are not materially and adversely altered; and (iv) no costs or expenses are imposed on such Owner. In furtherance of this appointment, each Owner agrees to join in the execution of any instrument required to acknowledge such authorization and/or affect any such amendment, vacating, replatting or other modification of the plat.

VIII.2 Term: This Declaration shall have a term of fifty (50) years from the date of recordation in the Property Records of Travis County.

VIII.3 Amendment:

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(a) Subject to the limitations set forth in this section, this Declaration may be amended by Declarant without the approval or joinder of any other Owner so long as Declarant (i) holds a majority of the votes of the Association, and (ii) provides all other Owners with a copy of the instrument executed by Declarant amending this Declaration. No amendment by Declarant shall be effective until there has been recorded in the Real Property Records of Travis County, Texas, an instrument executed and acknowledged by Declarant and setting forth the subject amendment to this Declaration.

(b) In addition to the methods described in this Section and subject to the limitations in this section, this Declaration may be amended by the recording in the Real Property Records of Travis County, Texas, of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least eighty percent (80%) of the number of votes entitled to be cast, pursuant to this Declaration.

VIII.4 No Warranty of Enforceability: While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Declaration are or may be invalid or unenforceable, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms, or conditions shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Declarant harmless therefrom.

VIII.5 Gender: Whenever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

VIII.6 Acceptance by Grantees: Each grantee of Declarant of a Lot in the Development, by the acceptance of a deed of conveyance, or each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens, and charges, and the jurisdiction, rights and powers created or reserved by this Declaration or to whom this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. All impositions and obligations hereby imposed shall constitute covenants running with the land within the Development, and shall bind any person having at any time any interest or estate in the Development, and shall inure to the benefit of each Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

VIII.7 Damage and Destruction:

(a) Promptly after damage or destruction by fire or other casualty to all or any part of the Common Area or facilities covered by insurance, the Board, 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 of the damage.

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Repair, as used in this section, means repairing or restoring the Common Area and/or facilities to substantially the same condition as existed prior to the fire or other casualty.

(b) Any damage to or destruction of the Common Area or facilities shall be repaired unless a majority of the Board shall decide within sixty (60) days after the casualty not to repair. 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 both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available.

(c) In the event that it should be determined by the Board that the damage or destruction of the Common Area shall not be repaired and no alternative Improvements are authorized, then the affected portion of the Common Area or facilities shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

(d) If the damage or destruction for which the insurance proceeds are paid is to be repaired, and such proceeds are not sufficient to defray the cost thereof, the Board shall levy a special Assessment against all Owners as provided herein. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(e) In the event that any proceeds of insurance policies are paid to Owners, such payments shall be allocated based on Assessment Units and shall be paid jointly to the Owners and the holders of first mortgages or deeds of trust on their Lots.

VIII.8 Interpretation: The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the improvement and operation of the Subdivision and of promoting and effectuating the fundamental concepts of the Subdivision set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

VIII.9 Headings: The headings contained in this Declaration are for reference purpose only and shall not in any way affect the meaning or interpretation of this Declaration.

EXECUTED to be effective the 26 day of June, 1997.

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IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, attested and its corporate seal to be hereunto affixed as of the day and year above written.

DECLARANT:

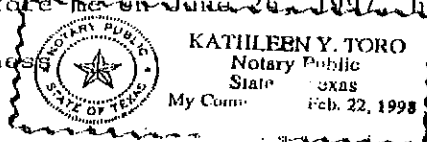
SANDY CREEK INVESTORS, LTD.,
a Texas limited partnership

By: Impact Business Management, Inc.
a Texas corporation,
its General Partner

By: _____
Joseph S. Woskow, President

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on June 26, 1997, by Joseph S. Woskow, President of Sandy Creek Investors, Texas limited partnership, By: Impact Business Management, Inc., a Texas corporation, its General Partner, on behalf of said limited partnership.



Kathleen Y. Toro

~~97 JUL -2 PM 4:21
COUNTY CLERK
TRAVIS COUNTY, TEXAS~~

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Travis County, Texas, on

JUL 2 1997



COUNTY CLERK
TRAVIS COUNTY, TEXAS

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TRAVIS COUNTY, TEXAS

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REAL ESTATE RECORDS
TRAVIS COUNTY, TEXAS

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