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**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR WOODCREEK SECTION NINE**

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WOODCREEK SECTION NINE (this "Declaration"), is made and entered into as of the 8th day of April, 1998, by TAC REALTY, INC., a Texas corporation ("Declarant").

RECITALS:

A. Declarant is the fee simple title owner of the real property (the "Property") described on Exhibit "A", attached hereto and made a part hereof for all purposes.

B. Declarant desires to subject the Property to this Declaration, and to the covenants, conditions, restrictions, easements, liens, and charges herein set forth.

C. Declarant will hereafter hold and convey title to the Property or any part thereof subject to the covenants, conditions, restrictions, easements, liens, and charges herein set forth.

AGREEMENT:

NOW, THEREFORE, Declarant hereby covenants, agrees, and declares that the Property shall be owned, held, transferred, leased, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, liens, and charges set forth in this Declaration, as amended from time to time pursuant to the terms hereof, which covenants, conditions, restrictions, easements, liens, and charges shall be covenants running with the land and shall be a burden and a benefit to Declarant and its successors, legal representatives and assigns, and any persons acquiring or holding any interest in all or any portion of the Property, their grantees, successors, heirs, executors, administrators, legal representatives and assigns.

ARTICLE I.

DEFINITIONS

The following words, when used in this Declaration shall, unless the context shall otherwise clearly indicate or prohibit, have the following meanings:

Section 1.01 "Architectural Review Committee" or the "**Committee**" shall mean and refer to that Committee composed of three (3) members appointed in the manner set forth in this Declaration, which Committee is appointed to provide for architectural control and approval within the Property and to have and exercise such other powers and/or duties as are more specifically set forth in this Declaration.

Section 1.02 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, as the same may from time to time be duly amended.

Section 1.03 "Assessments" shall mean and refer to the assessments and charges described in Article IV of this Declaration.

Section 1.04 "Association" shall mean a Texas non-profit corporation organized under the name of Concord Homeowners' Association, Inc., or such other name as the Declarant may designate. The Association shall be the entity responsible for collecting and disbursing the assessments and charges hereinafter created pursuant to this Declaration, enforcing the covenants and restrictions hereinafter set forth, and establishing and directing the enforcement of the architectural controls by and through the Architectural Review Committee, and maintaining and administering community properties and facilities on the Property as set forth herein.

Section 1.05 "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.06 "Bylaws" shall mean and refer to the Bylaws of the Association as the same may from time to time be duly amended.

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Section 1.07 "Certificate of Compliance" shall mean and refer to that certificate issued to an Owner stating that such Owner has complied with and satisfied the procedures set forth herein with respect to review and approval by the Architectural Review Committee of improvements constructed by such Owner on any Lot.

Section 1.08 "Certificate of Occupancy" shall mean and refer to any required certification issued by relevant governmental authorities as prerequisite to the occupancy of all or any portion of any Lot or the improvements thereon.

Section 1.09 "Common Area" shall mean and refer to all real property, including, without limitation, any private storm drains, private floodwater detention areas, private streets, private utilities, private parks, open space, trails and flood ways owned in fee, owned as an easement, leased or maintained from time to time by the Association for the common use, enjoyment and benefit of the Members of the Association, together with all improvements thereon, and all easements granted to the Association for the common use, enjoyment and benefit of the Members of the Association. The Common Area shall specifically include, without limitation, any areas so designated on the final plat for the Property or any portion thereof. Any real property or interest in real property which Declarant shall convey to the Association to be designated Common Area shall, at the request of Declarant, be accepted in writing by the Association and shall be conveyed free of all liens and assessments (other than the lien for current ad valorem taxes, assessments or installments of assessments, which are not yet due and payable). If at the time any Common Area is conveyed by Declarant to the Association, and it is intended that landscaping or improvements be constructed or installed on such Common Area, the Association may, as a condition to acceptance of such Common Area, require either (i) that such landscaping and improvements be completed at the time of such conveyance, or (ii) that Declarant execute such agreements and provide such assurances as may be reasonably necessary to ensure that such landscaping and improvements will be completed within a reasonable period of time after such conveyance at no cost or expense to the Association.

Section 1.10 "Conversion Date" shall mean and refer to the date upon which the Class B Membership in the Association ceases and is converted to Class A Membership in the Association pursuant to the provisions of Section 3.03 of this Declaration.

Section 1.11 "Declarant" shall mean and refer to TAC Realty, Inc., a Texas corporation, or any other person or entity which acquires all or substantially all of the portions of the Property owned by Declarant, together with Declarant's rights hereunder, by conveyance or assignment from Declarant.

Section 1.12 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Woodcreek Section Nine, together with all exhibits, amendments and supplements thereto.

Section 1.13 "Design Guidelines" shall mean and refer to the standards, restrictions or specifications published from time to time by the Architectural Review Committee and governing the construction, placement, location, alteration, maintenance or design of improvements to the Property.

Section 1.14 "Estate" shall mean and refer to a Tract, Lot or any other interest in real property contained within the Property, the ownership of which, by the terms of this Declaration, causes the owner thereof to be a Member of the Association.

Section 1.15 "Lot" shall mean and refer to any lot, plot, parcel or tract of real estate shown on any recorded subdivision, map or plat, as amended from time to time, to the extent such lot, plot, parcel or tract is a part of the Property, which is designated as a lot therein, and which is or will be improved with a single-family residential dwelling; provided, however, the term "Lot" shall not include any portion of the Common Area or any real property owned by or leased to the Association for the common use and enjoyment of the Members.

Section 1.16 "Member" or "Owner", shall mean and refer to each and every person or entity who is, alone or together with another person or entity, a record title owner of a fee or undivided fee interest in any lot, tract, or parcel of real estate out or part of the Property; provided, however, the terms "Member" or "Owner" shall not include any person or entity holding a bona fide lien or security interest in any lot, condominium unit, apartment complex, or parcel of real estate out of or part of the Property as security for the performance of an obligation (unless and until such

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provisions of this Declaration and the Bylaws) as their interests may appear, and to execute all documents and to do all things on behalf of such Owners, the Association, and their respective mortgagees as shall be necessary to the accomplishment of the foregoing; and any condemning authority may deal exclusively with the Association in regard to such matters.

Section 7.05 Destruction of Improvement on Individual Estates. Each Owner agrees that in the event of destruction (total or partial) to the improvements on any such Owner's Estate due to fire or any other cause, such Owner will either (i) commence all necessary repairs or reconstruction, or (ii) complete removal of the damaged improvements, within four (4) months of the date that the damage occurs and to complete such repairs, reconstruction or removal within a reasonable time from the Commencement of such work. Repairs, reconstruction or complete removal of damaged improvements may be commenced more than four (4) months after the date of occurrence of damage if the delays in commencement are caused by factors (other than financial inability) beyond the reasonable control of the Owner of the damaged improvements. Once repairs or reconstruction are commenced, such repairs or reconstruction shall be pursued and completed in a continuous and diligent manner, subject to delays (other than financial inability) which are beyond the reasonable control of the Owner of the damaged improvements.

ARTICLE VIII.

USE OF COMMON AREA

The Common Area shall be occupied and used as follows:

Section 8.01 Restricted Actions by Owners. No owner shall permit anything to be done on or in the Common Area which would violate any applicable public law or zoning ordinance or which will result in the cancellation of or increase in the premium for any insurance carried by the Association, or which is in violation of any law. No waste shall be committed in the Common Area.

Section 8.02 Damage to the Common Area. Each Owner shall be liable to the Association for any damage to the Common Area caused by the negligence or willful misconduct of such Owner or the family, guests, pets, agents, employees, contractors, or invitees of such Owner.

Section 8.03 Rules of the Board. All Owners, tenants and occupants shall abide by any rules and regulations adopted by the Board of Directors or the Architectural Review Committee. The Board of Directors shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees. The Bylaws may also provide for disciplinary procedures which may, at the option of the Board of Directors, be implemented to enforce such rules and regulations and to impose penalties for failure to comply with such rules and regulations.

Section 8.04 Suspension of Right to Use Common Area and/or Right to Vote. The Board of Directors may suspend the right of any Owner, or such Owner's tenants, guests, family members, or licensees to use the Common Area and/or may suspend the right of any Owner to vote during any period of time that such Owner is in default of their obligations pursuant to this Declaration or the Bylaws, or the rules and regulations promulgated by the Board of Directors or the Architectural Review Committee.

ARTICLE IX.

USE OF PROPERTY AND ESTATES - PROTECTIVE COVENANTS

The Property (and the improvements situated thereon) shall be constructed, developed, occupied and used as follows:

Section 9.01 Residential Use. Each Estate comprising part of the Property shall be used and occupied for Residential Use only; provided, however, that nothing contained in this Section 9.01 shall be deemed to prohibit or restrict the activities expressly permitted pursuant to Sections 9.10 hereof. Without limitation of the foregoing, no structures or improvements shall be placed on any Lot unless such structures or improvements are associated with a single family residential dwelling which has been, or will contemporaneously be, constructed on such Lot

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Section 9.02 Laws and Ordinances. No Owner shall permit anything to be done or kept in any building or on his Estate which will violate any applicable public law or zoning ordinance or which will result in the cancellation of, or increase the premium(s) for, any insurance carried by the Association, or which is in violation of any law or any rule or regulation promulgated by the Board of Directors or the Architectural Review Committee. In the event of a conflict between the restrictions contained herein and the zoning ordinances of the City of College Station, Texas, the more restrictive shall apply. No waste shall be committed in the Common Area.

Section 9.03 Removal of Dirt. The digging of dirt or the removal of any dirt from any Estate is prohibited, except as necessary in conjunction with landscaping, drainage or construction of improvements thereon in accordance with plans previously approved in writing by the Architectural Review Committee.

Section 9.04 Drilling and Mining Operations. Except as expressly permitted hereby, no oil drilling, water drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Estate, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Estate; and no derrick or other structure designed for use in boring for oil, natural gas or water shall be erected, maintained or permitted upon any Estate. Notwithstanding the foregoing, the extraction of oil, natural gas or other minerals under the Property shall not be prohibited, so long as such extraction is achieved by pooling, unitization, directional or horizontal drilling, or other subsurface procedures which do not involve any use of the surface of the Property or any portion thereof and which do not substantially impair the subjacent support of the Property or any improvements thereon. Furthermore, notwithstanding the foregoing, one or more water wells may be drilled on an Estate, so long as such wells are for commercial purposes or for supply of water for use on property other than such Estate. A derrick, drilling rig and/or other machinery reasonably necessary for the drilling of any such water well on an Estate may be temporarily situated upon such Estate, provided the drilling of such well is diligently and expeditiously pursued and provided such derrick, rig and machinery are promptly removed from such Estate following the use thereof.

Section 9.05 Offensive Activities. No noxious or offensive activity shall be conducted on any Estate nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Estate Owners. The Architectural Review Committee, in its reasonable discretion, shall determine what constitutes a noxious or offensive activity. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Estate, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes and further provided that they do not become an annoyance or nuisance to other Estate Owners.

Section 9.06 Commercial Use. No manufacturing, industry, retail business or activity, trade or business which generally involves the provision of services to the public or by appointment, will be conducted or carried on upon any Estate or any part thereof, or in any building or other structure erected thereon, save and except any sales office maintained by Declarant, with the prior written approval of the Architectural Review Committee and in compliance with the zoning ordinances of the City of College Station, Texas; provided, however, that nothing contained in this Section 9.06 shall be deemed to prohibit or restrict (i) the activities expressly permitted pursuant to Section 9.10 hereof or (ii) businesses, professions or activities which are conducted out of a home office which do not violate the express provisions of this Section 9.06.

Section 9.07 Clotheslines. No clotheslines may be maintained on any Estate unless completely screened from public view.

Section 9.08 Antennae. No antenna, satellite dish, or tower be affixed to or placed outside of any dwelling on any Estate, except as may be approved by the Architectural Review Committee. Such approval by the Architectural Review Committee may be conditioned upon appropriate screening of such antenna, satellite disk or tower from public view.

Section 9.09 Trash Receptacles and Collection. All trash receptacles shall be screened by fences, trees or shrubbery so as not to be generally visible by the public, unless otherwise approved by the Architectural Review Committee in writing. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the City of College Station, Texas, and/or the Association, in connection with the storage and removal of trash and garbage. All Estates shall at all times be kept in a healthful, sanitary condition. No Estate shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal, plastic

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or masonry materials, with tightly-fitting lids, and which shall be maintained in a clean and sanitary condition. The immediately preceding sentence shall not be deemed to prohibit the maintenance on an Estate of areas to store and create compost and other organic gardening materials for use on such Estate, so long as such areas are screened by fences, trees or shrubbery so as not to be generally visible to the public or from adjacent Estates. No Estate shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Estate may be placed upon such Estate at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which unused materials shall be promptly either removed from the Estate, or stored in a suitable enclosure on the Estate.

Section 9.10 Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any Estate. No trailer, mobile, modular or prefabricated home, tent, shack, barn or any other structure or building, other than the residential structure to be built thereon, shall be placed on any Estate, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto shall be moved upon any Estate from another location; except, however, that Declarant reserves the exclusive right to erect, place and maintain, and to permit builders and Owners to erect, place and maintain such facilities in and upon the Property as in Declarant's sole discretion may be necessary or convenient during the period of and in connection with the sale of Estates, construction and selling of residential structures and construction of other improvements on the Property. Such facilities may include, but are not necessarily limited to, temporary office buildings, storage areas, signs, portable toilet facilities and sales offices. Declarant (but not any other Owner) shall also have the temporary right to construct and use a temporary office or model home during the period of and in connection with construction and sales operations on the Property. Declarant shall have the right to conduct its construction and development operations and activities on portions of the Property owned by Declarant, and, in connection therewith, to do all things reasonably necessary or convenient in order to most expeditiously commence, continue and complete such construction and development activities. Except as otherwise expressly permitted hereby, any bus, boat, boat trailer, mobile home, camp mobile, camper, recreational vehicle, commercial truck, inoperable vehicle or any vehicle other than an operating conventional automobile with current registration and a current safety sticker shall, if brought within the Property, be stored, placed or parked within the garage of the appropriate Estate Owner or concealed from view by other Estate Owners, unless the Architectural Review Committee, in its sole discretion, directs or allows otherwise.

Section 9.11 Signs. No sign or signs shall be displayed to the public view on any Estate except that:

(a) Declarant may erect and maintain a sign or signs deemed reasonable and necessary for the construction, development, operation, promotion, sale of the Estates;

(b) Any builder, during the applicable initial construction and sales period, may utilize one professional sign of not more than five (5) square feet in size per Estate, acceptable to the Architectural Review Committee, for advertising and sales promotion on behalf of such builder;

(c) During the initial construction of the residence on any Lot, the Owner of such Lot may utilize one (1) professional sign of not more than five (5) square feet in size, acceptable to the Architectural Review Committee, advertising the lending institution providing financing for such construction;

(d) Following initial construction and sale, a dignified "for sale" sign of not more than five (5) square feet in size, acceptable to the Architectural Review Committee, may be utilized by the Estate Owner of any Estate for the sale of such Estate;

(e) Notwithstanding anything herein contained to the contrary, any and all signs, if allowed, shall be acceptable to the Architectural Review Committee and shall comply with all sign standards of the City of College Station, Texas, as such standards may be applicable to the Property; and

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(f) During the applicable initial construction of the residence on any Lot, the Owner of such estate may utilize one professional sign of not more than five (5) square feet in size per Lot advertising a lending institution providing financing for such construction.

Section 9.12 Swimming Pools. No above ground swimming pools shall be permitted except upon the prior written approval of the Architectural Review Committee. All pool service equipment shall be fenced and, in the case of any Lot, shall be located in either (i) a side yard between the front and rear boundaries of the principal dwelling, or (ii) the rear yard.

Section 9.13 Tennis Courts. No tennis court shall be constructed except upon the prior written approval of the Architectural Review Committee.

Section 9.14 External Sculpture, Gazebos, Greenhouses and Other Structures. No exterior sculpture, fountains, flags, outdoor furnishings, gazebos, pool pavilions, trellises, greenhouses; children's playhouses, treehouses, storage sheds or similar accessories or structures which are within public view or the view of adjacent Estates shall be constructed without the prior written approval of the Architectural Review Committee.

Section 9.15 Landscaping, Walls and Fences.

(a) Maintenance of Landscaping and Sprinkler System. Each improved Lot shall have and contain an underground water sprinkler system for the purpose of providing sufficient water to all landscaped areas. The sprinkler system for each Lot shall be designed and installed to adequately irrigate the area (the "Curbside Area") between the boundary of such Lot and the curb of any street which immediately adjoins such Lot. Each Owner of an Estate shall be responsible for the proper and adequate irrigation and maintenance of the Curbside Area which immediately adjoins such Estate, except to the extent such irrigation or maintenance is expressly undertaken by the Association. Weather permitting, areas appurtenant to buildings shall be fully landscaped within ninety (90) days from the date the building is substantially completed, or as soon thereafter as may be reasonably possible. Each Owner of an Estate shall be responsible for the landscaping and maintenance of such Estate and the landscaped areas located between such Estate and adjacent streets unless maintenance responsibility and an easement for such is conveyed to the Association and accepted by it.

(b) Fences.

(i) No fence, wall or hedge shall be erected, placed or altered on any Estate without the approval of the Architectural Review Committee. All clotheslines, wood piles, tool sheds, air-conditioning equipment, sanitation facilities or other reserve facilities must be enclosed or screened with fences, walls or landscaping, as may be required by the Architectural Review Committee, so as not to be generally visible by the public unless otherwise approved by the Architectural Review Committee in writing.

(ii) Screening walls shall be incorporated into and be harmonious with the overall landscaping plan developed for the Property. Without limitation of the foregoing, the Architectural Review Committee may prohibit the placement of privacy fences or stockade-type fences on portions of Lots which abut against open space areas or Common Area or which are visible from public streets.

(iii) No chain link, wire or other open fencing will be allowed unless expressly approved by the Architectural Review Committee. All wood portions of any fence shall be comprised of cedar or another wood specifically approved in writing by the Architectural Review Committee. Except as specifically approved in writing by the Architectural Review Committee, no fence, including, without limitation, any privacy fence, shall be placed or constructed

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in the front yard of any Lot or closer to the public street serving such Lot than the front of the residence located on such Lot.

(iv) No fence, wall or hedge shall exceed eight (8) feet in height without the prior approval of the Architectural Review Committee unless specifically required by the City of College Station, Texas.

(v) Given the great variety of potential fencing and screening configurations and materials, it is understood that the Architectural Review Committee may, from time to time, at its sole discretion, permit the construction of fences or walls which are in variance with the provisions of this Section 9.15(b) where, in the sole opinion of the Architectural Review Committee, the fence or wall is an integral part of the architectural style or design of the associated structure.

(c) Retaining Walls. Retaining walls may be employed to achieve even grades for swimming pools, driveways or foundations. The design, location and composition of all retaining walls shall be subject to approval by the Architectural Review Committee. Such retaining walls must be uniform in height with a flat top and must be constructed of materials which are consistent with the overall appearance of the associated structures. Any retaining wall with a height in excess of four (4) feet shall be constructed in accordance with plans and specifications prepared and sealed by a licensed professional engineer. No railroad ties or landscape timber shall be utilized in any areas which are within public view.

Section 9.16 Exterior Lighting. No exterior light shall be installed or maintained within the Property, which light is found to be objectionable by the Architectural Review Committee. Upon being given notice by the Committee that any exterior light is objectionable, the Owner of the Estate on which same is located will immediately remove said light or shield such exterior light in such a way that it is no longer objectionable.

Section 9.17 Setback Lines. All structures constructed on any portion of the Property shall comply with the then applicable planning and zoning codes of the City of College Station, Texas with respect to front, side and rear setback lines (without allowance for variances).

Section 9.18 Construction Standards. All residential structures shall meet the following requirements (except as may be otherwise permitted by approval of the Architectural Review Committee):

(a) Roofs. The use of various roofing materials within the Property shall be permitted; however, no roofing material shall be used without first obtaining the Architectural Review Committee's approval of same. All roofing materials shall be of high grade and quality and consistent with the exterior design, color and appearance of other improvements within the Property. The roof pitch on all structures constructed or placed on any Lot shall be five (5) feet by twelve (12) feet or steeper.

(b) Exterior Building Materials. Exterior building materials and colors must be approved by the Architectural Review Committee prior to installation. In addition, the exterior of improvements shall conform to the following:

(i) Improvements shall not be adorned with stylistic ornamentation or details that are out of character with the community image.

(ii) Exterior wall surface materials shall be limited to two approved materials, excluding trim, unless otherwise approved in writing by the Architectural Review Committee.

(iii) Brick exterior walls must be of hard fired face brick.

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(iv) Stucco exterior portions, to the extent permitted by the Architectural Review Committee, shall be the traditional three (3) coat process unless another process is specifically approved by the Architectural Review Committee.

(v) Chimneys shall be clad in brick, stone or other materials approved in writing by the Architectural Review Committee. No bare metal flume shall be permitted.

(vi) The exterior walls of each building constructed or placed on a Lot, exclusive of glass areas, shall be comprised, in the aggregate, of at least seventy-five percent (75%) brick, brick veneer, stone, stone veneer or masonry.

(c) Mailboxes. Housing for mailboxes shall be architecturally integrated with the individual residential project and shall be of similar construction, materials, design and form to said residential project. Any street side individual or dual service mail boxes shall be clad with brick, stone or other approved exterior material identical to the house(s) being served.

(d) Screening of Service Equipment. All exterior utility meters, transformers and other exterior mechanical equipment must be screened from view by other Estate Owners in a manner approved by the Architectural Review Committee. No roof mounted mechanical equipment shall be permitted unless properly screened from public view or otherwise approved by the Architectural Review Committee.

(e) Utilities.

(i) Improvements situated on an Estate shall be connected to the water and sewer lines as soon as practicable after same are available at the Estate boundary line. No privy, cesspool or septic tank shall be placed or maintained upon or in any Estate. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type, shall require the prior written approval of the Architectural Review Committee.

(ii) All telephone, electric, cable or other service lines shall be installed underground and shall meet all requirements of the City of College Station, Texas.

(iii) Grading plans shall be submitted for approval to the Architectural Review Committee prior to commencement of construction.

(f) Paint. Painted portions of all improvements and other structures on each Estate shall be repainted by the Owner thereof at his sole cost and expense as often as is reasonably necessary to insure the attractiveness and aesthetic quality of such Estate and such improvements and structures. Notwithstanding anything to the contrary contained herein, the approval of the Architectural Review Committee shall not be required for such repainting so long as neither the color scheme nor the arrangement of the colors of any improvements, nor the color of any paint thereon is altered; but prior written approval by the Architectural Review Committee shall be required with respect to any change in the exterior colors of any improvements or the arrangement of such exterior colors from the colors or arrangement previously approved by the Architectural Review Committee.

(g) Construction Period. Once commenced, construction shall be diligently pursued to the end that it may not be left in a partially completed condition any longer than reasonably necessary.

(h) Garages. The principal dwelling on any Lot shall provide attached or detached garage space for a minimum of two (2) conventional automobiles. Garages for four (4) or more automobiles shall be permitted only with the prior

written approval of the Architectural Review Committee. Each garage shall include one or more doors; and no carports or similar open enclosures shall be permitted on any Lot. The immediately preceding sentence shall not be deemed to prohibit porte-cocheres which are included in addition to, and not as a substitute for, the garage on any Lot. No garage shall be converted into living area for the associated residence, or otherwise architecturally altered, without the prior written consent of the Architectural Review Committee.

(i) Consideration of Other Properties. In connection with review by the Architectural Review Committee of the design, colors, and composition of exterior building materials, the Architectural Review Committee may consider the conformity of such materials to those in structures located on other Estates and the similarity of such materials to those in structures located on adjacent or nearby Estates; and the Architectural Review Committee may refuse to approve the design, colors or composition proposed for the exterior of any structure (notwithstanding previous approval by the Architectural Review Committee of identical or similar materials) if the Architectural Review Committee determines that the color, materials and/or composition of the proposed exterior materials are not generally compatible with the structures located on nearby Estates or that the proposed exterior materials are too similar in design, color, composition or general appearance to those of structures located on adjacent or nearby Estates.

Section 9.19 Failure to Maintain Estate. If, at any time, an Owner of any Estate shall fail to control weeds, grass and/or other unsightly growth, the Association shall have the authority and right to go onto such Estate for the purpose of mowing and cleaning such Estate and shall have the authority and right to assess and collect from the Owner of such Estate the expenses of mowing or cleaning such Estate on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Estate exceed six inches (6") in height, or nine inches (9") with respect to an undeveloped Tract, the Association shall have the right and authority to mow and clean the Estate, as aforesaid. The assessments authorized pursuant to this Section 9.19, together with interest thereon at the lesser of eighteen percent (18%) per annum or the highest lawful rate from the date of demand therefor until paid, and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the Estate against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, shall also be the continuing personal obligation of the person who was the Owner of such Estate at the time when the assessment occurred. Each and every Owner of any Estate, by the acceptance of a deed or other conveyance of such Estate shall thereby covenant and agree to pay such assessment. The lien securing any such assessment shall be subordinate and inferior to the lien of any bona fide mortgage or deed of trust (and any renewals, modifications or extensions thereof) existing prior to the date written notice of such assessment is recorded in the Real Property Records of Brazos County, Texas.

Section 9.20 Single-Family Residential Use. Except as expressly permitted by Sections 9.10 hereof, no building or structure shall be erected, altered, placed or permitted to remain on any Lot, other than a single-family dwelling and associated structures approved by the Architectural Review Committee, servant's quarters associated therewith and a private garage for two (2) or more automobiles. No building or structure on any Lot shall exceed two and one-half (2½) stories in height, exclusive of basement areas.

Section 9.21 Additional Construction Standards for Improvements Constructed on Lots. Notwithstanding anything to the contrary contained herein, the following restrictions and standards shall apply to improvements constructed on Lots contained within the real property described on Exhibit "A" to this Declaration (the "Original Property"); but, notwithstanding anything to the contrary contained in this Declaration, the restrictions and standards set forth in this Section 9.21 shall apply only with respect to improvements constructed on Lots contained within the Original Property and shall not apply to any other property which is subsequently subjected to this Declaration pursuant to any Supplemental Declaration:

(a) Minimum Floor Space. No residential dwelling constructed on any of the Lots identified below shall contain a floor area (exclusive of all porches, garages and breezeways attached to such dwelling, and exclusive of servants quarters which are not contiguous to the main quarters of the residence), determined using measurements to the outside face of the applicable walls or windows, which is smaller than the applicable minimum number of square feet set forth below:

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<u>Lots</u>	<u>Minimum Area</u>
Block 24, Lots 1 through 9	1,800 square feet, at least 1,200 feet of which shall be contained within the first floor of such dwelling
Block 25, Lots 1 through 7	
Block 26, Lots 1 through 8	
Block 27, Lots 1 through 12	

The Lot designations and street references set forth in this Article IX and in other portions of this Declaration shall mean and refer to the designations for such Lots set forth on the Final Plat (the "Plat") for Woodcreek Section Nine, as recorded in Volume 3079, Page 201, of the Official Records of Brazos County, Texas, as such Final Plat may be amended, supplemented or superseded from time to time.

(b) Front Setback. No portion of any structure or dwelling constructed on Lots 1 through 7, Block 25, shall be located nearer than fifteen (15) feet to the front boundary of such Lot; and no portion of any structure or dwelling constructed on any Lot in Blocks 24, 26 or 27 shall be located nearer than twenty-five (25) feet to the front boundary of such Lot. As used in the immediately preceding sentence, the "front boundary" of any Lot shall mean the boundary of any Lot which borders on a public or private street; provided, however, where a Lot borders on more than one public or private street, the Architectural Review Committee shall determine which boundary of such Lot constitutes a "front boundary" of such Lot for purposes of this Section 9.21(b).

(c) Rear and Side Setbacks. No portion of any structure or dwelling constructed on any Lot shall be located nearer to the rear or side boundaries of such Lot than is permitted by the applicable building code and zoning code of the City of College Station, Texas, without allowance for variances.

(d) Residence Orientation. The orientation of the principal residential dwelling on any Lot shall be subject to the approval of the Architectural Review Committee. The Architectural Review Committee shall determine which face of a residence constitutes the front of such residence, for purposes of applying this Section 9.21(d). Garages for the residences on Lots 1 through 7 of Block 25 shall face the alley behind such Lots and shall be serviced by rear driveways entering from such alley. The residences on Lot 9, Block 24, Lot 1, Block 27 and Lots 1 and 8, Block 26 shall not face Stonebrook Drive; nor shall the driveways for such residences enter such Lots from Stonebrook Drive.

Section 9.22 Subdivision. No Lot may be subdivided into two or more lots.

ARTICLE X.

MORTGAGEE PROTECTION

Section 10.01 Priority of Mortgage. Notwithstanding any other provision of this Declaration, a breach of any of the conditions contained in this Declaration by any Owner or any re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value and covering an Estate or any part thereof; provided, however, that in no event shall the existence of any mortgage or deed of trust diminish or in any way preclude the exercise of such right of re-entry, or the exercise of any other available remedies by the Association as a result of any such breach. Any lien which the Association may have on any Estate for the payment of Assessments or other payments attributable to such Estate will be subordinate to any lien or security interest of any bona fide deed of trust or mortgage on the Estate recorded prior to the date written notice of such Assessments or other payments is recorded in the Real Property Records of Brazos County, Texas.

Section 10.02 Financial Information. Upon prior written request to the Association, any lender holding a mortgage or deed of trust covering any portion of the Property is entitled to: (a) inspect the books and records of the Association during normal business hours; and (b) receive an unaudited annual financial statement of the Association.

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ARTICLE XI.

MAINTENANCE

Section 11.01 Duty of Maintenance. Owners and occupants (including lessees) of any Estate shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep the Estate so owned or occupied, including buildings and improvements, 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 waste;
- (b) Lawn mowing on a regular basis;
- (c) Tree and shrub pruning;
- (d) Watering landscaped areas;
- (e) Keeping exterior lighting and maintenance facilities in working order;
- (f) Keeping lawn and garden areas alive, free of weeds, and attractive;
- (g) Keeping parking areas and driveways in good repair;
- (h) Complying with all government health and police requirements;
- (i) Repair of exterior damages to improvements;
- (j) Repainting of applicable improvements; and
- (k) Replacement of dead landscaping to its previous condition, or in accordance with new landscaping plans approved by the Architectural Review Committee.

Section 11.02 Enforcement. If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities prescribed in Section 11.01, then the Association may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform such duties and responsibilities or make arrangements with the Association for making the repairs and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the applicable Estate and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and occupants (including lessees) of any part of the Property on which such work is performed shall jointly and severally be liable for the cost of such work and shall promptly reimburse the Association for such cost. If such Owner or occupant shall fail to reimburse the Association within (30) days after receipt of a statement for such work from the Association, then said indebtedness, together with interest thereon at the lesser of eighteen percent (18%) per annum or the highest lawful rate, from the date of demand therefor until paid, and the costs of collection thereof (including, without limitation, reasonable attorney's fees), shall be a debt of all of said persons jointly and severally, and shall constitute a lien against that Estate on which said work was performed. In accordance with the provisions of Section 4.05 hereof, and without limitation of any other available remedies, the Board of Directors shall have the right to levy a special individual assessment against the Owner of any Estate for any costs or expenses payable by such Owner or such Owner's tenant pursuant to this Section 11.02.

ARTICLE XII.

ARCHITECTURAL REVIEW COMMITTEE

Section 12.01 Architectural Review Committee. The Architectural Review Committee (herein sometimes referred to as the "Committee") shall be composed of three (3) individuals selected and appointed by the Declarant. The Committee shall perform all duties specified to be performed by the Committee pursuant to this Declaration and shall function as the representative of the Owners for the purposes consistent with the creation and preservation of the Property as a first-class residential development. Any vacancy in the Committee resulting from the removal, resignation or death of any member, or otherwise, shall be filled by an individual designated by Declarant or, subject to the written consent of Declarant, by the Association.

Declarant hereby designates Donald A. Adam, Keith H. Kuttler and Paul S. Darmitzel as the initial members of the Committee. Declarant shall have the power to change the membership of Architectural Review Committee from time to time, with or without cause, and notwithstanding anything to the contrary contained herein.

Each member of the Committee shall act reasonably and in good faith in performing his duties and obligations under this Article XII.

Section 12.02 Basis of Approval. No building, structure, fence, wall, sidewalk, walkway or improvement of any kind or nature shall be erected, placed or altered on any Estate until all final plans and specifications and a plot plan have been submitted to and approved in writing by the Committee, or a majority of its members, as to:

- (a) quality of workmanship and materials; proper facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscapes;
- (c) location with respect to topography and finished grade elevation, and relationship between and effect of location and use on neighboring Estates and improvements situated thereon;
- (d) drainage arrangements; and
- (e) compliance with the other standards set forth within this Declaration (and any amendments hereto).

The Committee is authorized and empowered to consider and review any and all aspects of construction, construction of other improvements and location, quality and quantity of landscaping on the Estates, which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more Owner(s) or the general value of the Property. The Committee is permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Committee. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of the restrictions and covenants described in Article IX hereof. Unless otherwise expressly provided in this Declaration, wherever the approval of the Committee is required by the provisions of this Declaration, such approval shall mean the prior written approval of the Committee.

Any improvements constructed in accordance with plans and specifications approved by the Committee in accordance with its then applicable standards and requirements shall not be required to be changed because such standards are thereafter amended. However, in the event the Committee approves plans and specifications for any improvement and construction of such improvement is not commenced within one (1) year after the date of such approval, such improvement shall not be constructed unless and until the plans and specifications for such improvement are resubmitted to and approved by the Committee. Any such resubmission and approval be made upon the same basis as initial submission of plans and specifications for an improvement; and such approval shall be based upon the then applicable standards and requirements of the Committee, notwithstanding that such standards and requirements may have changed from those which were applicable when the plans and specifications for such improvement

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were initially approved. The Committee shall review and act upon submitted plans and specifications in accordance with the applicable time periods specified in Sections 12.04 and 12.06.

Section 12.03 Definition of Improvement. For purposes of this Article XII, "improvement" shall mean and include all buildings and roofed structures, fences, walls, poles, driveways, ponds, lakes, water wells, swimming pools, tennis courts, signs, mailboxes, exterior lighting fixtures (other than street lights), changes in any exterior color or shape, glazing of exterior windows with mirrored or reflective glass or changes in the color or style of any existing window glazing, street, grading, drainage, utilities, walks, walkways and any new construction or exterior improvement significantly altering the appearance of any of the foregoing. "Improvement" does not include public streets, street lights, utilities, walks, walkways, garden shrub replacements or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expenses in accordance with generally accepted accounting principles and which does not change exterior colors or exterior appearances. "Improvement" does include both original improvements and all later changes and improvements.

Section 12.04 Preliminary Plan Submissions. The Architectural Review Committee is authorized and empowered to and shall consider, review, and comment on preliminary plans submitted on an informal basis to assist Owners, developers, and prospective purchasers of portions of the Property in complying with applicable covenants and restrictions and to assist in the completion of feasibility studies undertaken by such persons or entities. If the preliminary plans and specifications are approved by the Committee, the Committee shall so notify the Estate Owner or his designated representative. If not approved by the Committee, the Committee shall furnish the Estate Owner or his designated representative with a reasonable statement of items found not to comply with the provisions of this Article XII. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, disapproval of the matters submitted shall be presumed. Comments on and approvals of preliminary plans and specifications shall be binding upon the Architectural Review Committee, provided that final plans and specifications consistent with such preliminary plans are submitted within ninety (90) days of such preliminary comment or approvals.

Section 12.05 Plan Submissions. Final plans and specifications shall be submitted to the Committee prior to the construction of any improvements on an Estate, which plans and specifications shall include, to the extent applicable to the proposed improvements as determined by the Architectural Review Committee, plans complying with the requirements of this Section 12.05 and the other provisions of this Declaration. Such plans shall include:

- (a) A plat showing the location of all proposed improvements, structures, patios, mailboxes, swimming pools, driveways, parking areas and structures, fences and walls. Estate drainage provisions shall be included as well as cut and fill details if any appreciable change in the Estate contour is contemplated.
- (b) Exterior elevations of all proposed buildings and structures.
- (c) A description of exterior materials.
- (d) A depiction of all walkways, fences and walls, and elevation changes.
- (e) Parking areas and driveway plans.
- (f) Screening including size, location and method.
- (g) Dimensional floor plan of all enclosed spaces including dwelling areas and any garages or parking facilities.
- (h) Such other matters as may be required by the then applicable zoning or building codes of the City of College Station, Texas or any other municipal or governmental authority having jurisdiction over the Property.
- (i) A plan showing the location and screening of all exterior utility meters, transformers, and other mechanical equipment.

(j) Any other data or information requested or deemed reasonably necessary by the Architectural Review Committee, including, without limitation, samples of proposed construction materials.

The Committee may defer the date for submission of any of the matters described in Section 12.05 by notice in writing to the person or entity requesting such deferral of the submission date. However, such deferral shall not constitute a waiver of the applicable submission, absent an express written waiver of such submission by the Architectural Review Committee.

Section 12.06 Approval Procedure. At such time as the final plans and specifications are approved by the Committee, the Committee shall send notice of such approval to the Estate Owner or his designated representative, subject to such terms and conditions as the Committee may deem appropriate. If not approved by the Committee, the Committee shall send to the Estate Owner or his designated representative a reasonable statement of items found not to comply with the provisions of this Article XII or other applicable provisions of this Declaration. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, disapproval of the matters submitted shall be presumed. Any material modifications or changes to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval.

The Committee is authorized and empowered to condition its approval for plans and specifications submitted to the Committee upon changes noted by the Committee or upon subsequent approval by the Committee of certain items noted by the Committee. In such case, such plans and specifications shall be deemed to have been approved by the Committee subject in all respects to the conditions and subsequent approvals so noted by the Committee.

All improvements approved by the Committee shall be diligently pursued to completion after the commencement of construction thereof.

Section 12.07 Design Guidelines. The Committee may, from time to time, publish and promulgate Design Guidelines, and such Design Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Review Committee in policy and in reviewing plans and specifications. In any event, such Design Guidelines shall not be binding upon the Committee and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials submitted to the Committee for approval.

Section 12.08 Variances. Upon submission of a written request for same, the Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install Improvements which are in variance from the standards which are provided in this Declaration or which may be promulgated in the future. In any case; however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community. Written requests for variances shall be deemed to be disapproved if the Committee has not expressly and in writing, approved such request within thirty (30) days of the submission of such request. No member of the Committee shall be liable to any Owner for any claims, causes of action or damages arising out of the grant of any variance to any other Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder, against any other Owner.

Section 12.09 Nonconforming and Unapproved Improvements. The Association may require any Owner to restore such Owner's improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any approved improvement) if such improvements were commenced or constructed in violation of this Article XII. In addition, the Association may, but has no obligation to, cause such restoration, demolition and removal and levy the amount of the cost thereof as a special individual assessment against the Estate upon which such improvements were commenced or constructed.

Section 12.10 No Liability. Neither Declarant, the Association, the Committee, the Board of Directors, nor the officers, directors, members, employees and agents of any them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgement,

negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications, and every Owner of any portion of said property agrees that he will not bring any action or suit against Declarant, the Association, the Committee, the Board of Directors, or the officers, directors, members, employees and agents of any of them, to recover any such damages and hereby releases, remises, and quitclaims all claims, demands and causes of action arising out of or in connection with any such judgment, negligence or nonfeasance and, to the greatest extent permitted by applicable law, hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

Section 12.11 Certificate of Compliance. Within thirty (30) days after actual receipt by the Committee of an Owner's request for same and upon substantial completion of improvements, the plans and specifications for which are subject to review by the Committee, the Committee shall inspect such improvements, and if the improvements are constructed, erected, placed, or altered in accordance with approved plans and specifications, the Committee shall issue a Certificate of Compliance with respect to such improvements. No construction or improvement on any Estate shall become occupied (as defined by the City of College Station, Texas in its Certificate of Occupancy permit) without the issuance of a Certificate of Compliance by the Committee.

Section 12.12 Appointment and Designation. The Committee may from time to time, by the vote or written consent of a majority of its members, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects, to other qualified persons or to subcommittees of the Committee, which shall have full authority to act on behalf of said Committee in all matters delegated.

Section 12.13 Review Fee and Address. Any plans and specifications shall be submitted in writing for approval, together with a reasonable processing fee as set by the Committee. The review fee shall cover only the cost of employing non-affiliated consultants to review plans and specifications, as well as incidental expenses associated with the review process. The address of the Committee shall be the registered office of the Association, from time to time reflected in the offices of the Secretary of the State of Texas or such other address as may be designated by the Association from time to time. Such address shall be the place for the submittal of any plans and specifications.

Section 12.14 Inspection. Any member or agent of the Committee may from time to time at any reasonable hour or hours enter and inspect all or any part of the grounds and exterior portions of the Estate of such Owner to confirm improvement or maintenance in compliance with the provisions of this Declaration; provided, however, that in no event shall any member or agent of the Committee be entitled to enter or inspect the interior of the residence or other improvements located on an Estate.

Section 12.15 Governmental Authorities. No improvement or addition or applicable change or alteration thereof shall be constructed, erected, placed, altered, or maintained on any of the Property, including the Common Area, which is in violation of any of the laws or ordinances of the City of College Station, Texas, or any other applicable governmental laws, rules, or regulations. Notwithstanding anything to the contrary herein contained, Declarant, the Association, the Committee, the Board of Directors and their respective officers, directors, agents, and employees shall have no obligation to enforce or to report the violation of any such law, ordinance, rule, or regulation.

Section 12.16 No Liability for Design Defects. Plans and specifications are not reviewed or approved by the Committee for adequacy engineering or structural design or quality of materials, and by approving such plans and specifications, neither the Committee, the Association, the Board of Directors, Declarant, nor any of their respective officers, directors, members, employees, or agents assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications.

ARTICLE XIII.

EASEMENTS

Section 13.01 Ingress and Egress by the Association. Full rights of reasonable ingress and egress shall be had by the Association and the Committee at all times over and upon each

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Estate for the maintenance and repair of each Estate in accordance with the provisions hereof, and for the carrying out by the Association and the Committee of their respective functions, duties and obligations hereunder; provided, that any such entry by the Association or the Committee upon any Estate shall be made with as little inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Association or the Committee, as applicable, at the expense of the Association or the Committee, as applicable.

Section 13.02 Easements for Encroachment. There shall be reciprocal appurtenant easements for encroachment as between each Estate and such portion or portions of the Common Area adjacent thereto, or as between adjacent Estates due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than two (2) feet, as measured from any point on the common boundary between each Estate and the adjacent portion of the Common Area or as between adjacent Estates, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful or negligent conduct on the part of an Owner, tenant, or the Association.

ARTICLE XIV.

GENERAL PROVISIONS

Section 14.01 Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty-five (35) years from the date that this Declaration is recorded in the office of the County Clerk of Brazos County, Texas, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument agreeing to abolish such covenants, conditions and restrictions is signed by Owners holding at least sixty-seven percent (67%) of the votes of all Owners (determined in accordance with Section 3.03 hereof), and recorded in the Real Property Records of Brazos County, Texas, at least one (1) year in advance of the effective date of such abolishment. Upon any such abolishment, the terms and provisions of this Declaration shall be of no further force and effect with respect to the period from and after the date of such abolishment.

Section 14.02 Enforcement. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity (including, without limitation, an action for injunction or specific performance) against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter with respect to the same or any subsequent breach or violation of the applicable covenant, condition or restriction. The Architectural Review Committee, Declarant, the Board of Directors and/or the Association shall also have the right, but not the obligation, to enforce these covenants and restrictions in accordance with the provisions set forth within this Declaration. In the event the Architectural Review Committee, Declarant, the Board of Directors and/or the Association employs an attorney in connection with alleged violation by any Owner of the terms of this Declaration and is the prevailing party in the applicable legal proceeding, the offending Owner shall reimburse the Architectural Review Committee, Declarant, the Board of Directors and/or the Association, as applicable, for costs, expenses and attorneys' fees incurred in connection with such legal proceeding.

Section 14.03 Limitation of Restrictions on Declarant. Declarant is undertaking the work of developing land and construction of incidental improvements upon the Property. The completion of that work and the sale or, other disposal of such developed land is essential to the establishment and welfare of said Property as a residential development. In order that said work may be completed and said Property be established as a fully occupied residential development as rapidly as possible, nothing in this Declaration shall be understood or construed to:

- (a) Prevent Declarant, its contractors, or subcontractors from doing to the Property, whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business or completing said work and establishing said Property as a residential development and disposing of the same in parcels by sale, lease, or otherwise; or

(c) Prevent Declarant from conducting on any part of the Property such business or completing said work; or

(d) Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale, lease or disposition thereof.

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The foregoing limitations of the application of the restrictions to Declarant shall terminate upon the sale or conveyance of Declarant's entire interest in the Property. Any action taken by Declarant pursuant to any provision of this Section 14.03 will not unreasonably interfere with any Owner's rights and use of his Estate.

Section 14.04 Termination of Responsibility of Declarant. If Declarant should convey all, or substantially all, of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant and shall succeed to all of the rights and powers of the Declarant hereunder.

Section 14.05 Owners' Compliance. Each Owner, tenant or occupant of any portion of the Property shall comply with the provisions of this Declaration, and with the decisions, rules and regulations, and resolutions of the Association; and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages and/or fines or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting procedures established shall be deemed to be binding on all Owners, their successors and assigns.

Section 14.06 Severability. The illegality, invalidity, or unenforceability of any provision of this Declaration under present or future laws shall not affect the other provisions of this Declaration, which shall remain in full force and effect; and this Declaration shall be construed as if such illegal, invalid, or unenforceable provision had never comprised a part of this Declaration. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be automatically added to this Declaration a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

Section 14.07 Headings. The headings contained in this Declaration are for reference purposes only and shall not constitute substantive material for purposes of construing the meaning of the terms and provisions of this Declaration. Except as expressly otherwise set forth herein, references in this Declaration to numbered Articles and Sections refer to the applicable Articles and Sections of this Declaration.

Section 14.08 Notices to Member or Mortgagee. Notice required to be given to any Member, mortgagee or lessee under the provisions of this Declaration shall be deemed to have been properly delivered, whether or not actually received, when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Member, mortgagee or lessee in the records of the Association at the time of such mailing. In the event that there are multiple Members or lessees with respect to a single Estate, the Association shall be obligated to send notice to only one (1) of the multiple Members or lessees; and notice to one shall be deemed to be notice to all. Multiple owners of an Estate may designate one (1) of their group as the person entitled to notice by so notifying the Association in writing of such person and the address thereof, but if no such person is designated, the Association may notify any one (1) of such multiple owners. Notices of past due assessments, of the intention to institute any of the punitive provisions hereof, of any sanctions to be imposed hereunder or of any violations of this Declaration shall be sent to the affected person or entity by certified mail, return receipt requested, and addressed as aforesaid.

Section 14.09 Disputes. Matters of dispute or disagreement between Owners, or between any Owner and the Association, with respect to interpretation or application of the provisions of this

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Declaration or the Bylaws, shall be determined by the Board of Directors, whose reasonable determination shall be final and binding upon all Owners.

Section 14.10 Interest. Nothing contained in this Declaration shall authorize the collection of interest in excess of the maximum amount permissible under applicable law. If from any circumstance whatsoever, interest would otherwise be payable in amounts which exceed the maximum lawful rate, the applicable interest payable shall be reduced to the maximum amount permitted under applicable law; and if from any circumstances the Association or any other party shall ever receive pursuant to this Declaration anything of value deemed to be interest by applicable law which is in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of principal and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the party paying the same. All interest paid or agreed to be paid under the terms of this Declaration shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of the applicable indebtedness so that the interest thereon does not exceed the maximum amount permitted by applicable law. The term "applicable law", as used in this Section 14.10 shall mean applicable laws of the State of Texas or the applicable laws of the United States of America, whichever laws allow the greater rate of interest.

Section 14.11 Minor Corrections. Notwithstanding anything to the contrary contained herein, during the period prior to the fifth (5th) anniversary of the date Declaration is recorded in the Real Property Records of Brazos County, Texas, Declarant shall have the right, without the joinder of any other party, to amend this Declaration, in order to correct typographical errors and to make other revisions thereto which do not materially and adversely affect the rights or obligations of any other Owner.

Section 14.12 Conflicts. In the event of any conflicts or inconsistencies between the terms of the Articles of Incorporation and the terms of this Declaration or the Bylaws, the terms of the Articles of Incorporation shall control and govern. In the event of any conflicts or inconsistencies between the terms of this Declaration and the terms of the Bylaws, the terms of this Declaration shall control and govern.

Section 14.13 Amendment. This Declaration may be amended by the written consent of Owners of portions of the Property holding at least sixty-seven percent (67%) of the total votes of all Owners (determined in accordance with Section 3.03 hereof); provided, however, that no such amendment shall affect the rights or obligations of Declarant unless such amendment is consented to in writing by Declarant; further provided, notwithstanding anything to the contrary contained in this Declaration, that in the event the Association is party to any outstanding agreement to merge with another homeowners' association or to jointly manage the Property or the Common Area with another homeowners' association, no amendment to the Declaration shall be entered into without the prior written consent of such other homeowners' association (which consent may be conclusively evidenced by the certification of an officer of the Association contained in the applicable amendment). Any and all amendments to this Declaration shall be recorded in the Real Property Records of Brazos County, Texas.

Section 14.14 Use of Words "Concord" or "Woodcreek". No Owner, tenant, or licensee of any Owner or occupant of any Estate, other than the Declarant, shall use the words "Concord" or "Woodcreek" or any combination or derivative thereof in the name of any commercial or residential building or any commercial or residential business or enterprise or in any printed or promotional material without the prior written consent of (i) the Declarant, during the period prior to the date (the "Divestiture Date") upon which title to all Lots previously owned by Declarant has been conveyed by Declarant to third parties (other than any third party which has acquired substantially all of Declarant's interest in the Property and has expressly assumed Declarant's obligations hereunder), or (ii) the Association, during the period from and after the Divestiture Date; provided, however, without such consent, Owners, tenants, licensees, or occupants of any portion of the Property may use the terms "Concord" or "Woodcreek" in printed or promotional material, where such term is used solely to specify that such Owner's residence is located within the Woodcreek subdivision or on a street which includes the name Concord or Woodcreek.

Section 14.15 Compliance with FHLMC and FNMA Regulations. The Declarant contemplates that the documents creating and governing the Association and/or this Declaration may be amended to comply (if not in compliance) with all requirements of the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal National Mortgage Association ("FNMA") pertaining to the purchase or guaranty by FHLMC or FNMA of loans. Declarant and all Owners

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therefore agree that, notwithstanding anything to the contrary contained herein, in the event this Declaration, the Bylaws, the Articles of Incorporation or any other documents or instruments governing or creating the Association or the use of Estates within the Property do not comply with the FHLMC or FNMA requirements, the Declarant shall have the power, in its discretion, at any time on or before the date which is three (3) years after the date this Declaration is recorded in the Real Property Records of Brazos County, Texas (on behalf of the Association and each and every Owner, without the joinder of any other party), to amend the terms of this Declaration, the Bylaws and the Articles of Incorporation and any other documents or instruments governing or creating the Association or the use of Estates within the Property and/or to enter into any agreement with FHLMC (or its designee) or FNMA (or its designee) reasonably required by FHLMC or FNMA to allow the Property, Association, Bylaws, Articles of Incorporation, this Declaration, and/or any other related documents to comply with such requirements; provided, however, that in no event shall any amendment pursuant to this Section 14.15 (i) permit any additional uses of the Property (other than those currently permitted hereby), (ii) alter the manner in which the votes of the Owners are calculated hereunder, or (iii) alter the manner in which Assessments are determined or allocated among the Owners hereunder.

IN WITNESS WHEREOF, TAC Realty, Inc, a Texas corporation, being the Declarant herein, has executed this Declaration to be effective for all purposes as of the date first written above.

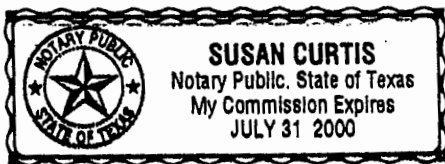
TAC REALTY, INC., a Texas corporation

By: *Keith H. Kuttler*
Keith H. Kuttler
Executive Vice President

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 8th day of April, 1998, by Keith H. Kuttler, Executive Vice President of TAC REALTY, INC., a Texas corporation, on behalf of said corporation.



Susan Curtis
NOTARY PUBLIC, STATE OF TEXAS
Notary's Printed Name: _____
My Commission Expires: _____

WHEN RECORDED, RETURN TO:

TAC Realty, Inc.
1111 Briarcrest Drive, Suite 300
College Station, Texas 77802
ATTN: Paul Darmitzel