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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR ALLEN PLACE ADDITION

THE STATE OF TEXAS :  
COUNTY OF TARRANT : KNOW ALL MEN BY THESE PRESENTS:

THAT THIS DECLARATION is made on the date hereinafter set forth by ALLEN PLACE JOINT VENTURE, a joint venture (hereinafter referred to as "Declarant").

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property heretofore platted and subdivided into certain residential lots in a subdivision known as Allen Place Addition, a subdivision in Tarrant County, Texas, as described in the map or plat thereof recorded in the Map Records of Tarrant County, Texas; and

WHEREAS, Declarant desires to hold, sell and convey such property subject to the following covenants, conditions, restrictions, reservations and easements, which are for the purpose of establishing a uniform plan for the development, improvement and sale of said property, and to insure the preservation of such uniform plan for the benefit of both present and future owners of the lots within the subdivision; and

NOW THEREFORE, Declarant adopts the following covenants, conditions, restrictions and reservations and easements which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subdivision and which shall be applicable to certain lots in said subdivision and shall run with the land and shall bind all parties having or acquiring any right, title, or interest therein, or any part thereof, their heirs or successors in title and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Allen Place Addition Homeowners Association, Inc., a non-profit corporation incorporated under the laws of the State of Texas, its successors and assigns.

Section 2. "The Property" or "The Properties" shall mean and refer to the certain lots in the hereinabove described Allen Place Addition, as more particularly set for the in the plat recorded in the Map Records of Tarrant County, Texas. Furthermore, "The Property" or "The Properties" may also include any additional tracts or parcels of land as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Lot" or "Building Plot" shall mean and refer both to each plot of land shown upon the recorded subdivision map upon which there has been or will be constructed a single-family residence, and to the residence and improvements constructed or to be constructed thereon, but shall not mean or include any common area.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to the surface estate in any Lot or tract of land which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Occupant" shall mean any person legally entitled to occupy and use all or a portion of the properties.

Section 5. "Common Properties" shall mean and refer to those areas of land lying between the fence and curb adjacent and along the street known as Ridglea Country Club Drive and that area at the entrance to Allen Place Addition lying in the median of Allen Place Drive; all located within public property as shown by the plat of the property; and intended to be devoted to the common use and enjoyment of the Members of the Association, together with any and all improvements that are now or may hereafter be constructed thereon.

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Section 6. "Common Facilities" shall mean and refer to all existing and subsequently provided improvements upon or within the Common Properties, except those as may be expressly excluded herein. Also, in some instances, Common Facilities may consist of improvements for the use and benefit of the owners of the Lots in the Properties, as well as other owners in the subdivision and outside the subdivision, constructed on portions of one or more Lots or on acreage owned by Declarant (or Declarant and/or others) which has not been brought with in scheme of The Declaration. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: structures for recreation, storage or protection of equipment; fountains; statuary; sidewalks; common driveways; landscaping; guardhouses; esplanades; walls; and other similar and appurtenant improvements. References herein to "the Common Facilities" (any Common Facility) in "The Subdivision" shall mean and refer to Common Facilities as defined respectively in The Declaration and all Supplemental Declarations.

Section 7. "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions bringing additional property with the scheme of the Declaration under the authority provided in The Declaration. References herein (whether specific or general) to provisions set forth in "all (any) Supplemental Declarations" shall be deemed to relate to the respective properties covered by such Supplemental Declarations.

Section 8. "Easements" shall mean and refer to the various utility or other easements of record, those shown on the map or plat of the subdivision and such other easements as are created or referred to in this Declaration.

Section 9. "The Declaration" shall mean and refer collectively to the covenants, conditions, restrictions, supplemental restrictions, reservations, easements, liens and charges imposed by or expressed in this Declaration.

Section 10. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Association.

Section 11. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 12. "Conveyance" shall mean and refer to conveyance of a fee simple title to a Lot.

Section 13. "Declarant" shall mean and refer to Allen Place Joint Venture, the Declarant herein, its successors and assigns (i) if such successors or assigns should acquire a majority of the Lots in the Subdivision; or (ii) if such successors or assigns are designated in writing by Allen Place Joint Venture, as a successor or assign of all, or part, of the rights of Declarant.

Section 14. "Assessable Tract" shall mean and refer to any Lot or Building Plot from and after the date on which paved public street access, water and sanitary sewer service have been extended thereto.

Section 15. "Living Unit" shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons maintaining a common household.

Section 16. "New Construction Committee" shall mean and refer to the committee created by the Declarant to exercise exclusive jurisdiction over all original construction of Single Family Residences on the Lots within the Properties as provided herein.

Section 17. "Modifications Committee" shall mean and refer to the committee created by the Board of Directors of the Association to exercise exclusive jurisdiction over the modifications, additions, or alterations made on, or to, existing Single Family Residences as provided in Article IV hereof.

ARTICLE II

ALLEN PLACE ADDITION HOMEOWNERS ASSOCIATION, INC.

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality hereof, the Association shall also discharge those functions necessary to the general maintenance of the Properties. The Board of Directors of the Association shall be empowered to oversee the activities of the Association to such an extent as they may take whatever reasonable action they, in their sole discretion, deem necessary to provide for the upkeep and aesthetic appearance of the Properties for the common benefit of all the Members of the Association.

Section 2. Membership. Every person or entity who is a record Owner of any of the Properties which are subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association.

Section 3. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and each shall be entitled to one vote for each Lot. When more than one person holds an interest in any Lot, all such persons shall be members. The vote of such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. Class B members shall be the Declarant herein, as such term is defined in Article I, Section 13, who shall be entitled to nine (9) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership on the happening of either of the following three events (A, B, or C), whichever occurs earlier:

- (A) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (B) The tenth anniversary date of the Declaration; or
- (C) When the Declarant terminates Class B votes by an instrument filed in the official Public records of Real Property of Tarrant County, Texas.

Section 4. Non-Profit Corporation. Allen Place Addition Homeowners Association, Inc., a non-profit corporation, has been organized and all duties, obligations, benefits, liens, and rights hereunder in favor of the Association, shall vest in said corporation.

Section 5. By-Laws. The Association may make whatever rules or By-Laws it may choose to govern the organization, provided that same are not in conflict with the terms and provisions hereof.

Section 6. Rights, Powers and Duties of the Association. The rights, powers and duties of the Association shall include but not be limited to the following:

- (a) The Association shall have the right to borrow money and, with the assent of Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes of both Classes of Members, to mortgage the Common Properties.

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- (b) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Properties Against foreclosure of any such mortgage.
  - (c) The Association shall have the right to suspend the enjoyment rights of any Member for any period during which any assessment or other amount owed by the Member to the Association remains unpaid.
  - (d) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Properties, and to suspend the enjoyment rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.
  - (e) The Association shall have the right to assess and collect the assessments provided herein and to charge reasonable admission and other fees for the use of any recreational facilities which are a part of the Common Properties.
  - (f) The right of the resident owners or occupants of dwelling within any area owned by the Declarant as of the date hereof and in the vicinity of the Property, to use the Common Properties, together with all facilities now or hereafter located thereon.
  - (g) The Association shall have the right to dedicate or convey all or any part of the Common Properties, or interest therein, to any public authority for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or conveyance shall be effective unless an instrument agreeing to such dedication or conveyance signed by Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes of both Classes of Members has been recorded. The Association shall have the right to rent or lease any part of the Common Properties for the operation (for profit or otherwise) of any service activity intended to serve a substantial number of residents in the Properties, with the consent of its Board of Directors.
  - (h) The Association shall have the right, but not the obligation, to contract on behalf of all Assessable Tracts, for garbage and rubbish pickup and to charge the Owner of each Assessable Tract for his prorata share of the cost thereof, such prorata share to be determined by dividing the number of Assessable Tracts being served into the total cost of providing such garbage and rubbish pickup. If the Association so elects, the charge to each Owner for garbage and rubbish pickup shall be in addition to the assessments described in Article III hereof.
  - (i) The Association shall have the right, but not the obligation, to contract on behalf of all Assessable Tracts, for security and/or emergency medical ambulance services, and to charge the Owner of each Assessable Tract for his prorata share of the cost thereof, such prorata share to be determined by dividing the number of Assessable Tracts being served into the total cost of providing such security and/or emergency medical ambulance service. If the Association so elects, the charge to each Owner for security and/or emergency ambulance service shall be in addition to the assessments described in Article III hereof.

### ARTICLE III

#### COVENANTS FOR MAINTENANCE ASSESSMENTS

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Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Building Plot owned within the Properties, hereby covenants, and each Owner of any Building Plot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest costs and reasonable attorney's fees, shall be a charge on the land and shall be secured by a

continuing Vendor's Lien upon the Property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but shall be secured by the continuing lien referred to above.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to improve, beautify, maintain, manage, and operate the Common Properties, and to pay taxes and insurance premiums thereon, and to promote the recreation, health, safety, convenience, and welfare of the Members, such benefits to include, by way of illustration but not limitation, providing professional management or financial services, providing patrol or watchman service, providing service contractors to manage and maintain recreational facilities, providing and maintaining lighting, and the appurtenant mechanical and electrical fixtures, plumbing equipment and drainage systems, fogging for insect control, providing garbage and rubbish pickup, maintaining the unpaved portion of, and any esplanades any street or right of way adjoining the Property, maintaining any esplanades or landscaping contained within cul-de-sacs in any public streets located within the Property, enforcing the provisions contained in this Declaration, employing, at the request of the Modification Committee and/or New Construction Committee, one or more architects, engineers, attorneys, or other consultants, for the purpose of advising such Committee in carrying out its duties and authority as set forth herein or in the opinion of the Board of Directors of the Association, for the maintenance and/or improvement of the Common Properties or for the benefit of the Members, and foregoing uses and purposes being permissive and not mandatory, and the decisions of the Board of Directors of the Association being final as long as made in good faith and in accordance with the By-Laws of the Association and governmental laws, rules and regulations.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment shall be Two Hundred and No/100 (\$200.00) Dollars for each Building Plot, which shall be due and payable as provided hereinafter. Anything contained herein to the contrary or seemingly to the contrary notwithstanding, the assessments provided for herein, shall be payable in the manner hereinafter set forth by the Owners of each of the Building Plots reflected on the plat of Allen Place Addition, to be filed for record in the map records of Tarrant County, Texas.

- (a) From and after January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment may be increased each year not more than fifteen percent (15%) (such percentage may be cumulative from year to year) above the maximum assessment for the previous year by the Board of Directors without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum assessment may be increased above 15% by the vote or written assent of a least 51% of each class of Members.
- (c) The Board of Directors shall fix the annual assessment at an amount not in excess of the maximum set forth herein.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereinabove, the Association may levy against the Assessable Tracts in any calendar year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, purchase, acquisition, repair, or replacement of a capital improvement of the Association, including necessary fixtures and personal property related thereto, but any such assessment must be approved by Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes cast by both Classes of Members. The special assessment against every Assessable Tract shall be the same as the special assessment against every other Assessable Tract.

Section 5. Uniform Rate of Assessments. The Association, by action of its Board of Directors, shall levy annual assessments against the Assessable Tracts to obtain funds reasonably anticipated to be needed for purposes stated in Section 2 hereinabove, including reasonable reserves for contingencies and for capital improvements, replacements, and repairs; provided, the annual assessments shall be levied on a uniform basis as follows:

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| (a) Building Plots owned by Declarant  | None |
| (b) Building Plots owned by builders for the purpose of constructing a residence thereon | 50%  |
| (c) Building Plots with completed residences sold to individual home buyers              | 100% |

Section 6. Commencement of Annual Assessments; due Date. Subject to the provisions of Section 5 hereof, the annual assessments provided for herein shall commence on each Assessable Tract on January 1, 1992, provided, however, that the annual assessments shall not commence with respect to any Lot or Building Plot until such Lot or Building Plot becomes an Assessable Tract as defined herein. The annual assessment on each assessable Tract for the first year of assessment shall be due and payable on the day a Lot or Building Plot becomes an Assessable Tract. After the first year, the annual assessment on such Assessable Tract for such calendar year shall be due and payable on the first day of January in said year. The due date of any special assessment under Section 4 hereof, shall be fixed in the Resolution of the Member of the Association authorizing or approving such assessment.

Section 7. Commencement Date of Special Assessments. Special Assessments provided for herein shall commence at a time determined by the Board.

Section 8. Common Area Exempt. All Common Area as defined in Article I, Section 5, and any common area of any other associations created on the Property, and all portions of the Property owned or otherwise dedicated to any political subdivisions, shall be exempt from the assessments and lien created herein.

Section 9. Duties of the Board of Directors. the Board of Directors of the Association shall determine the amount to be levied as the annual assessment against each Assessable Tract for each calendar year, subject to the criteria and limitations set out in Sections 3 and 5 hereof. The Board of Directors of the Association shall cause to be prepared a roster of the Assessable Tracts showing the amount of each assessment, which roster shall be kept in the office of the Association and shall be open to inspection by an Owner. The Association shall, upon demand at any time, furnish to any Owner a certificate in writing signed by an officer or agent of the Association setting forth whether or not there are any unpaid assessments against said Owner's property. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid, as to any third party who in good faith relies thereon to his economic detriment.

Section 10. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum rate allowable by law per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Building Plot. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a deed to a Building Plot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Section 51.002, Tex. Prop. Code Ann. (Vernon 1983), and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all Building Plot Owners. No Owner may waive or otherwise escape liability for the assessments

provided for herein by non-use of the Common Area or abandonment of his Building Plot.

Section 11. Subordination of the Lien to Mortgages. The lien securing any assessment provided for herein shall be subordinate to the lien of any mortgage(s) now or hereafter placed upon the property subject to the assessment for the purpose of securing indebtedness incurred to purchase or improve such property; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, a foreclosure by trustee's sale under a deed of trust, or a conveyance in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for an assessment thereafter becoming due, not from the lien securing any such subsequent assessment. In addition to the automatic subordination provided for above, the Association, in the discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine.

Section 12. Exempt Property. The assessments and liens created in this Article III shall apply only to Assessable Tracts and the remainder of the property in the Properties shall not be subject thereto or entitled to the rights granted to Members in this Declaration.

#### ARTICLE IV

##### NEW CONSTRUCTION COMMITTEE AND MODIFICATION COMMITTEE

Section 1. Tenure. The Declarant shall initially appoint a New Construction Committee, consisting of not less than two (2) members who need not be members of the Association. Declarant shall have the right to appoint the New Construction Committee for as long as Declarant owns at least one (1) lot in the property. The persons serving on the New construction Committee, or their successors, shall serve until such time as all Lots subject to the jurisdiction of the Association and Declarant shall have Living Units thereon occupied as residences, at which time the New Construction Committee shall resign and thereafter its duties shall be fulfilled and its powers exercised by the Board of Directors of the Association. In the event of the death or resignation of any person serving on the New Construction Committee, the remaining person(s) serving on the Committee, or the Declarant, shall designate a successor, or successors, who shall have all of the authority and power of the predecessor member. A majority of the New Construction Committee may designate someone serving on the Committee to act for it as the Designated Representative. No person serving on the committee shall be entitled to compensation for services performed pursuant to this Article IV. However, the Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the Committee in carrying out its duties hereunder; and the Association shall pay such consultants for such services as they render to the Committee.

Section 2. Rights of the Committee. The Declarant reserves the right to control or direct the New Construction Committee for a period of ten (10) years from the date of the recording of these restrictions. At the time when future sections are annexed into this Association, if any, the New Construction Committee's term will extend for ten (10) years from the date of the recordation of the annexation instrument.

Should the Declarant decide to relinquish control of the New Construction Committee prior to the expiration date stated above, it may do so by resigning all its Members with a minimum of thirty (30) days prior written notice to the Board of Directors of the Association.

The New Construction Committee shall reserve the right to develop and adopt Architectural Control Guidelines for use in the review and approval of construction and improvement projects.

The Board of Directors is authorized to establish a Modification Committee whose responsibility will be to set standards, review and act upon all proposed modifications or improvements to those lots where residences have been constructed and sold and are owned by someone other than the Declarant, its successors or assigns or a builder. This Committee will be comprised of no less than three (3) members with at least two (2) members required to be members of the Association. The Modifications Committee will

be governed by the Board of Directors and shall adhere to all the provisions set forth in this Declaration.

The Modification Committee shall promulgate detailed standards and procedures governing its area of responsibility and practice. In addition thereto the following shall apply: plans and specifications showing the nature kind, shape, color, size, materials and location of such modifications, additions, or alterations, shall be submitted to the Modification Committee for approval as to quality of workmanship and design and harmony of external design with existing structures and as to location in relation to surrounding structures, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of the Owner to remodel the interior of a structure or to paint the interior of a structure any color desired.

Section 3. General. All property which is now or may hereafter be subjected to the Declaration is subject to architectural and environmental review. This review shall be in accordance with this Article and such standards as may be promulgated by the Board, the New Construction Committee, or the Modifications Committee. Any obligations of Declarant to enforce provisions relating to historic preservation shall become the responsibility of the Association and the committees created in this Article shall ensure compliance therewith. The Board of Directors shall have the right and power on behalf of the Association to enforce in courts of competent jurisdictions, decisions of either committee.

Section 4. Submissions to New Construction Committee. to secure the approval (the "Final Approval") of the New Construction Committee, an Owner shall deliver to the Committee, in form and substance reasonably satisfactory to the Committee, the number of complete sets hereinafter set forth of:

- (a) a site plan showing the location, dimensions, orientation to boundary lines and the set back lines of proposed buildings, parking garages, other structures, means of ingress and egress, driveway, traffic patterns, sidewalks, fencing and other improvements; and
- (b) design elevation of, and a core plan for, and description of the foundation, height and size of each structure, including the gross building area of each structure;
- (c) Drawings and detail of all exterior surfaces, including the roof, showing elevations and including the color, quality and type of exterior construction materials (collectively, the Exterior Plan);
- (d) All such other information as may be reasonably required which will enable the New Construction Committee to determine the location, scale, design, character, style and appearance of such Owner's intended Improvements.

All of the foregoing (collectively, as originally submitted and as revised and resubmitted, the "Plans" shall conform to the applicable provisions of this Declaration. The Owner shall supply as many sets, not to exceed three (3), as deemed appropriate by the Committee.

Where an Owner has neglected to submit a site plan and/or a schematic plan for approval, failure of the New Construction Committee to exercise the powers granted by this Article IV shall never be deemed a waiver of the right to do so either before or after a building or other improvement in the Subdivision, or any exterior addition to or alteration therein, has been completed.

Where not otherwise specified herein, the New Construction Committee also shall have the right to specify requirements for each building site as follows: minimum setbacks; driveway access to adjacent street; the location, height and extent of fences, walls or other screening devices; garage access and the orientation of structures with respect to streets, walks, and structures on adjacent property. There shall be no chain link fencing except as may be utilized by builders with the approval of the New Construction Committee for temporary storage of building materials and supplies during the construction phase. The surface materials used in the construction of driveways and front sidewalks will consist solely of reinforced concrete and/or brick unless otherwise approved by the New Construction Committee.



The New Construction Committee shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or meet its minimum construction requirements or Architectural design requirements or that might not be compatible, in its judgment, with the overall character and aesthetics of the Property.

The New Construction Committee has the full authority to enforce additional restrictions as they are encumbered against any Property within a specific Neighborhood. Such restrictions will be more clearly defined in Supplemental Restrictions filed of record in Tarrant County, Texas, for each Neighborhood.

Section 5. Time for Review of Plans. Upon submission by the Owner to the New Construction Committee or the Modification Committee of a written request for Final Approval and the submission to the New Construction Committee of the Plans (as applicable and in either case, the "Submitted Plans"), or other plans to the Modification Committee, each committee shall endeavor to review same within thirty (30) days from receipt of plans and notify Owner in writing whether the Submitted Plans are approved or disapproved. Committees, as required, shall approve the plans if such plans do not violate this Declaration. Any such disapproval shall set forth the specific reason or reasons for such disapproval. Any failure by the New Construction Committee to approve or disapprove the submitted plans in writing within such thirty (30) day period shall not constitute a waiver of the requirement that such approval be obtained or of any other requirements provided for in the Submitted Plans shall be commenced until the receipt of the Committee's written approval of the Plans for such Improvements. In the event the Modification Committee fails to approve or disapprove plans submitted to it, or requests additional information reasonably required, within thirty (30) days after submission, the Plans for modifications shall be deemed approved.

Section 6. Review of Revised Plans. If the New Construction Committee shall disapprove any part of the Submitted Plans, the Owner may revise the Submitted Plans to incorporate such changes requested by the New Construction Committee and may deliver the required number of complete sets of revised Submitted Plans to the New Construction Committee and the New Construction Committee shall endeavor to review such revised Submitted Plans within thirty (30) days to determine Owner's compliance with the New Construction Committee's requested changes.

Section 7. Changes in Approved Plans. an Owner shall secure the approval of the New Construction Committee to any materials change or revisions in approved Plans in the manner provided in this Article for the approval of Plans.

Section 8. Variances. the New Construction Committee may authorize variances from compliance with any other of the architectural provisions of this Declaration, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least a majority of the New Construction Committee, and shall become effective upon their execution. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations.

Upon the recommendation of the Modifications Committee, the Board of Directors may authorize variances, as stated above. Such Modifications Committee variances must be evidenced in writing and signed by a majority of the Board of Directors and a majority of the Modification Committee.

Section 9. No Liability. Neither Declarant, the Association, Board of Directors, the New Construction Committee or Modification Committee or the Members thereof shall be liable in damages to anyone submitting plans or specifications to 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 to the New Construction Committee or Modification Committee for approval, agrees by submission of such plans and specifications and every Owner agrees that he will not bring action or suit against Declarant, the Association, Board of Directors, the Committees, or any of the members thereof to recover any such damages.

Section 10. Rules and Regulations. the New Construction Committee may, from time to time in its sole discretion, adopt, amend and repeal rules and regulations interpreting and implementing the provisions hereof.

#### ARTICLE V

#### EASEMENTS

Section 1. General. the rights and duties of the Owners of Lots within the Property with respect to sanitary sewer, water, electricity, gas, telephone, and cable television lines and drainage facilities shall be governed by the following:

- (a) Wherever sanitary sewer and/or water house connections or electricity, gas or telephone and cable television lines or drainage facilities are installed within the Property, which connection lines or facilities or any portion thereof, lie in or upon Lots owned by any party other than the Owner of a Lot served by said connections, lines or facilities, such Owners of Lots served shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lots within the Property in or upon which said connections, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as to when the same may be necessary as set forth below.
- (b) Wherever sanitary sewer and/or water house connections or electricity, gas, telephone or cable television lines or drainage facilities are installed within the Property, which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections which services his lot.

Section 2. Reservation of Easements. Easements over the Lots and Common Areas for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities are hereby reserved by Declarant, together with the right to grant and transfer same.

Section 3. Surface Areas of Utility Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat. With the exception of certain Lots located on the perimeter of the subdivision, underground electric, gas and telephone service shall be available to the remainder of the Lots in the subdivision. For so long as such underground service is maintained, the electric service to each Lot shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle, alternating current. Easements for the underground service may be crossed by driveways, walkways, patios, brick walls and fences, provided the Declarant or Builder makes prior arrangements with the utility companies furnishing electric, gas and telephone service and provides and installs any necessary conduit of approved type and size under such driveways, walkways, patios, brick walls or fences prior to construction thereof. Such easements for the underground service shall be kept clear of all other improvements, and neither the grantor nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways, walkways, patios, brick walls or fences, providing conduit has been installed as outlined above) of the Owner located on the land covered by said easements.

Section 4. Public Streets. All Lots within the subdivision shall abut and have access to a public street. Public Street right-of-ways are shown on the plat of Allen Place Addition.

Section 5. Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and other service vehicles to enter upon the Common Area including, but not limited to private streets, in the performance of their duties and further, an easement is hereby granted to the Association, its officers, agents, employees, and management personnel to enter the Common Area to render any service.

Section 6. Universal Easement. Each Lot and its Owner within the Properties is hereby declared to have an easement, and the same is hereby granted to Declarant, over all adjoining Lots and Common Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. there shall be easements for the maintenance of aid encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachment so long as they shall exist. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to the Lot being serviced and shall pass with each conveyance of said Lot.

Section 7. Public Easement. There is hereby reserved to Declarant, its successors and assigns, an easement for public ingress and egress over any public pedestrian pathways. this easement shall not imply any right of public use of the Common Area or Improvements thereon owned by the Association.

#### ARTICLE VI

#### UTILITY BILLS, TAXES AND INSURANCE

Section 1. Obligation of the Association. The Association shall have the following responsibilities regarding utility bills, taxes and insurance:

- (a) the Association shall pay as a common expense of all Owners, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Common Property or any part thereof.
- (b) The Association shall render for taxation and, as part of the common expenses of all owners, shall pay all taxes levied or assessed against or upon the Common Property and the improvements and the property appertaining thereto.
- (c) The Association shall have authority to obtain and continue in effect as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities, if any, located in the Common Property and the contents thereof and the Association against the risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, in such limits as the Association deems property, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Common Area, Association, its Board of Directors, its Members, agents and employees from and against liability in connection with the Common Property. director and Officer liability and fidelity bonds are also allowable coverage that may be obtained by the Association.

- (d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association as hereinabove provide, shall be paid out of the maintenance funds as a common expense of all Owners and shall be a part of the maintenance assessment.
- (e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
- (i) A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents and guests;
  - (ii) A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
  - (iii) That no policy may be cancelled, invalidated, or suspended on account of any one or more individual owners;
  - (iv) That no policy may be cancelled, invalidated or suspended no account of the conduct of any director, officer, or employee of the Association or its duly authorized manage without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any owner or Mortgage; and
  - (v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction, as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or in the event no repair or reconstruction is made after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s), as their interest may appear, if any Residential Unit is involved, shall be retained by and for the benefit of the association. This is a covenant for the benefit of any Mortgagee of a Residential Unit, Commercial Unit or Tract and may be enforced by such Mortgagee.

If it is determined, as provided for in Section 5 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner provided for excess proceeds herein.

Section 3. Damage and Destruction. Immediately after the damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in the paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.

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

In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property 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.

Section 4. Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's member, levy a Special Assessment against all Class A Owners in proportion to the number of residential lots. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be deposited to the benefit of the Association.

## ARTICLE VII

### CONDEMNATION

Whenever all or part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners of Residential Units and Tracts subject to the taking, if any) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, unless otherwise prohibited by law. The award made for such taking shall be payable to the Association, as trustee for all Owners, to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the number of votes in the Class "A" membership of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area, to the extent land are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article VI hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are not funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of Directors of the Association shall determine.

## ARTICLE VIII

### MAINTENANCE AND REPAIRS

Section 1. By the Owners. It shall be the duty, responsibility and obligation of each Owner at the sole cost and expenses of the Owner to care for, maintain and repair the exterior and interior of the residence and improvements on the Lot and the fixtures, appliances, equipment and other appurtenances thereto and also including the private driveway appurtenant to this residence, sidewalks and fences which are appurtenant to the residence and situated on the Lot. The Association shall have no duty or obligation to any Owner in this regard. The Association shall have the right to enforce this restriction to the fullest extent permitted in this Declaration. If any Improvement is damaged or destroyed, the Owner shall diligently proceed to restore such improvement to the condition existing prior to such damage or destruction or, in the alternative, raise or remove such Improvement and Landscape from the property pursuant to a Removal Plan approved by the Modifications Committee.

Section 2. By the Association. The Association, as a common expense of all Owners, shall perpetually care for, maintain and keep in good repair the Common Property, Common Facilities and all parts thereof, including but

not limited to, landscaped lawns, esplanades, parking areas and improvements and facilities owned by the Association, except that it shall be the obligation of each Owner, and not the obligation of the Association to pay for the cost of repair and maintenance of any private driveway, sidewalk, and fence or fences which are appurtenant to his residence house.

#### ARTICLE IX

##### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. The Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all Improvements thereon (including furnishings and equipment related thereto), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof.

The Board of Directors shall be authorized to contract with outside Associations to provide usage of the Recreational Facilities of this Association. such contract will set forth usage privileges and obligations and monetary for such privileges to this Association. All arrangements, fee schedules and contracts will be developed and approved at the total discretion of the Board of Directors of this Association.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within Allen Place Addition conveyed to it by the Declarant. All property conveyed to the Association as Common Area shall be free of all liens and other similar encumbrances. Notwithstanding anything contained in this Declaration to the contrary, Declarant, and the Association upon its succeeding to Declarant's rights, shall have the right, power and authority to dedicate to any public or quasi-public authority water lines, sanitary sewer systems, storm water facilities, streets and esplanades situated in the Common Area and to terminate or modify these restrictive covenants with respect to such dedicated property. such dedication and acceptance thereof shall not prohibit the Association from maintaining the Land and facilities located within dedicated areas, nor relieve the Owners of the obligation to participate in the payment of the cost of such maintenance.

Section 3. Rules and Regulations. The Association, throughout its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration and any subsequent Supplemental Restrictions. Sanctions may include reasonable monetary fines which shall constitute a lien upon the Owner's Residential Unit, Commercial Unit or Tract, and suspension of the right to vote and the right use the Common Area. In addition, the Board shall have the power to seek relief in any court for violations or to abate unreasonable disturbances.

Section 4. Implied Rights. The Association may exercise any other right or privilege given it expressly by this Declaration or the By-Laws, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein necessary to effectuate any such right or privilege.

#### ARTICLE X

##### RESTRICTIONS OF USE

Section 1. Residential Use. All lots in this tract shall be known and described as residential lots, and shall be used for single family residential purposes. No residence shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family residence per lot.

Section 2. Square Footage. No single family detached dwelling shall be constructed on said lots which contains a floor area within the main structure exclusive of open porches, garages and breezeways, of less than 2000 square feet. It is expressly understood and agreed that the above minimum floor space requirements may be reduced by ten percent (10%) on any lot by written authorization of the Committee.

Section 3. Exterior Surfaces. The total exterior wall area of the first floor shall not have less than seventy-five percent (75%) brick, brick veneer, stone, stone veneer or glass. All chimneys shall be of masonry construction.

Section 4. Garage. Each residence shall not have less than a two (2) car garage. The garage door of any house must open to the side or rear for inside lots except that a garage door can open toward the street provided the garage is a minimum of thirty feet (30') behind the front building line. Swing entry garages are allowed.

Section 5. Driveways. All driveways shall be concrete, brick or another masonry construction as approved by the New Construction Committee. All access to garages must be entered from the public alley in Lots 1 through 24, Lots 27 and 28, of Block 2. All residences constructed in Allen Court and Earnest Court must face the court in which it is adjacent.

Section 6. Roofing. All roofing of residences must be built with concrete tile, clay tile, wood shingles or a composition shingle in brown or gray tones as approved by the New Construction Committee. All roofs must be constructed with at least an 8/12 pitch.

Section 7. Antennas. No satellite discs, or any other type of instrument or structure, receiving radio or television reception, or other types of sound or video reception, shall be allowed at any place outside of the house, or on a lot except that such a structure may be placed in the backyard or a lot so long as it is not visible from the view of any street. No use shall be made of any lot or structure thereon for any type of radio or television or similar broadcasting systems.

Section 8. Fences and Walls. All fences shall be of wood, masonry or ornamental iron construction as approved by the New Construction Committee, and shall not exceed the height of eight (8) feet. All fences constructed of wood must be solid and constructed of standard size planks. Said fence or wall must be completed not later than at the time of completion of the residence. All lot owners with lots contiguous to Allen Place Addition agree to keep in good repair and to maintain the masonry, wood or iron exterior fence, and shall not remove, alter, paint or otherwise change the general aesthetic effect of the perimeter fence. All retaining walls must be of masonry construction faced with brick, stone or reasonable facsimile.

Section 9. Mailboxes. Mailboxes shall be constructed of brick or ornamental iron to match the residence in a style and form approved by the New Construction Committee.

Section 10. Landscaping. Each lot on which a dwelling unit is constructed shall have landscaping including but not limited to shrubs, flowers, at least two (2) trees in the front yard which shall be approved by the New Construction Committee, ground cover and grass, either sod or hydromulch, of a sufficient quality, quantity and design to be compatible with landscaping on adjoining lots. An underground sprinkler system must be installed in all front yards. Landscaping of a lot, including the sprinkler system, shall be completed within one hundred twenty (120) days after the date of which the house or residence is complete. Lot owners shall use reasonable efforts to preserve, keep and maintain the landscaping in healthy and attractive condition.

Section 11. Signage. No sign of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than six (6) square feet advertising the property for sale or rent, and/or one (1) builder sign to advertise the property during the construction and sales period. Grantor or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the foregoing requirements, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. Grantor

shall have the right to erect and maintain two billboards of not more than ninety-six (96) square feet so long as Grantor is marketing lots on the Land.

Section 12. Grass and Trash. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, and said rubbish, trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for storage or disposal of such material, shall be kept in a clean and sanitary condition. Grass, weeds and vegetation of each lot in the Subdivision shall be kept mowed at regular intervals so as to maintain the lot in a neat and attractive manner. Upon failure to maintain a lot, the Grantor or its assigns of said Property may, at its option, have the grass, weeds and vegetation cut when, and as often as necessary in its judgment, and the owners of the property shall be obligated to reimburse the Grantor or its assigns for the cost of such work.

Section 13. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any property in the Subdivision except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the family.

Section 14. Vehicles. Trucks with tonnage in excess of one (1) ton shall not be permitted to park on streets, driveways or lots overnight, and no vehicle of any size which normally transports inflammatory or explosive cargo may be kept in the Property at any time. No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked in the open on any lot, or parked on any public street in the Subdivision. No junk vehicles or vehicles in disrepair or neglect shall be stored, repaired or displayed on any lot, street or otherwise in this Property.

Section 15. Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or other structure designed for use in boring for oil or natural gas be erected, maintained or permitted upon or in any lot.

Section 16. Offensive Activity. No noxious or offensive activity shall be carried on upon any lot nor anything be done thereof which may be or may become an annoyance or nuisance to the neighborhood.

Section 17. Temporary Structures. No structure of a temporary character such as a trailer, basement, tent, shack, barn or other outbuilding shall be used on any lot at any time as a residence; however, builders may maintain and occupy model houses. Sales offices during the construction and sales period will be accepted only with the permission and under the terms and conditions provided for by the Grantor herein.

Section 18. Outbuildings. All outbuildings except greenhouses shall correspond in style and architecture to the residence to which it appertains and shall be of the same materials, both walls and roof, as such residence unless said outbuilding is erected so as not to be visible from the street or to other property owners.

Section 19. Solar Panels. Any roof solar heating units installed must be architecturally acceptable and approved by the New Construction Committee and have no glare reflected to other property owners.

Section 20. Air Conditioning Units. No air conditioning apparatus shall be installed on the front of a dwelling house. In the event a compressor system is placed in the required side yard of any lot, the compressor system must be located ten (10) feet behind the front building line, but in no instance shall this compressor system extend further than the front wall of the dwelling unit. No evaporative cooler or other window cooler shall be installed on the front wall or window or the side wall or window of a dwelling house.

Section 21. Inspection. The Grantor reserves the right during the construction of said improvements to enter upon the subject lot for the purpose of inspecting said construction to ascertain that the approvals and/or restrictions heretofore provided for are being complied with. However, the failure of the undersigned to inspect said improvements during construction does not constitute a waiver of the rights of the Grantor, New Construction Committee or any lot owner to enforce the provisions contained



herein at any time after the construction of said improvements has been completed.

Section 22. Assignment of Interest. The New Construction Committee may assign, with unanimous approval of all members, to any person or corporation any or all rights, powers, reservations, easements and privileges herein reserved by and to the Committee, and such assignee shall have the same right to so assign. Any individual member of the New Construction Committee may, with unanimous approval of all members, assign to a person or corporation of their choice, either temporarily or permanently, all of its rights and obligations as a New Construction Committee member hereunder.

## ARTICLE XI

### GENERAL PROVISIONS

Section 1. Enforcement. The terms and provisions of this Declaration shall run with and bind the land in the Property, and shall inure to the benefit of and be enforceable by Declarant, the Association, or the Owner of any Lot, and by their respective legal representatives, heirs, successors and assigns. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating or threatening to violate any term or provision hereof, to enjoin or restrain violation or to recover damages, and against the Property to enforce any lien created by this Declaration, and failure to Declarant, the Association, or any Owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter.

Section 2. Incorporation. The terms and provisions of this Declaration shall be construed as being adopted in each and every contract, deed or conveyance hereafter executed by Declarant conveying all, or any part, of the land in the Property, whether or not referred to therein, and all estates conveyed therein and warranties of title contained shall be subject to the terms and provisions of this Declaration.

Section 3. Term. the covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of, and shall be enforceable by, the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs successors and assigns.

Section 4. Amendments. This Declaration may be amended in whole, or in part, by an instrument executed by the President of the Association when approved by (i) Members entitled to cast not less than seventy-five percent (75%) of the aggregate of the votes of both Classes of Membership if the amendment occurs within twenty (20) years after the date of this Declaration; or (ii) the Members entitled to cast not less than sixty percent (60%) of the aggregate of the votes of both Classes of Membership if the amendment occurs more than twenty (20) years after the date of this Declaration. Following any such amendment, every reference herein to this Declaration shall be held and construed to be a reference to this declaration as so amended. All amendments shall be recorded in the Official Public Records of Real Property of Tarrant County, Texas.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or his assignee of such right or privilege.

Section 5. Amendments by Declarant. so long as Declarant owns a Lot in the Subdivision, the Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party, to amend this Declaration by any instrument in writing signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity, or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by The Declaration, and shall not impair the vested Property or other rights of any Owner or his mortgages. Particularly reserved to the Declarant, is the right and privilege of Declarant to designate the use restrictions applicable to any portion of the Properties as provided within this Declaration; and

such designation, or subsequent change of designation, shall not be deemed to adversely affect any substantial right of any existing Owner.

Section 6. Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member or Members will not become burdensome to, nor constitute harassment of the Association. This Declaration and the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 7. Indemnification and Hold Harmless.

- (a) By the Association. The Association shall indemnify every officer and director against any and all expenses, including counsel fees reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a part by reason of being, or having been, an officer or director. The officers and directors shall not be liable for any mistake of judgement, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by the, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. the Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.
- (b) By an Owner. Each Owner shall be liable to the Association for any damage to the Common Area of any type or to any equipment thereof which may e sustained by reason of the negligence of said Owner, his tenants, employees, agents, customers, guests or invitees, to the extent that any such damage shall not be covered by insurance. Each Owner does further, by the acceptance of a deed, agree to indemnify each and every other Owner, and to hold harmless each and every other Owner, from any claim of any person for personal injuries or property damage occurring within or upon his Residential Unit, Commercial Unit or Tract. further, it is specifically understood that neither the Declarant, the Association, the Board of Directors, or any Owner shall be liable to any person for injury or damage sustained by such person occasioned by the use of any portion of the golf course or other recreational facility within the Properties. Every Owner does hereby agree to defend, indemnify and hold harmless the Declarant, the Association, the Board of Directors and other Owners from any such claim or damage.

Section 8. Rights of Mortgagees, Trustees, Lienholders. No violations of any of these restrictions, covenants or conditions, shall affect or impair the rights of any Mortgagee, Trustee or Lienholder under any mortgages or Deeds of Trust, or the rights of any assignee of any Mortgagee, Trustee or Lienholder under any such mortgage or Deed of Trust.

Section 9. Building Sites. With the written approval of the New Construction Committee, the Owner(s) of a group of Lots, each of which is adjacent to one or more of the other Lots in the group, may designate a part of Lot, or any combination of Lots or portions of Lots, to be a building site or building sites. The front, rear and side lines of the platted Lots affected by any such action, as such lines are designated on the Subdivision Plat, shall be adjusted to conform to the front, rear and side lines of the new building sites for building and other purposes. Improvements, limited to the improvements permitted in this Declaration or subsequent Supplemental Declarations, may be constructed on any such building site in accordance with

the new front, rear and side lines thereof. Each such building site, upon being designated as such by the Owner(s) thereof with the written approval of the New Construction Committee, shall thereafter be a Lot for all purposes of the Declaration, except that all future assessments payable by the Owner of a building site comprised of several Lots combined in accordance with this Section 10 will be based upon one assessment for each of the originally platted Lots so combined.

Section 10. Renting or Leasing. Improvements on Tracts or Residential Units may be rented or eased only by written leases and subject to the following restrictions:

All tenants shall be subject to the terms and conditions of this Declaration, the By-laws, the Articles of Incorporation, and the rules and regulations promulgated thereunder as though such tenant were an owner.

Each Owner agrees to cause his lessee, occupant, or persons living with such Owner to comply with the Declaration, By-laws, and the rules and regulations promulgated thereunder, and is responsible for all violations and losses caused by such tenants or occupants notwithstanding the fact that such occupants of the unit are fully liable for any violation of the documents and regulations; failure to comply shall be, at the Board's option, considered a default in the lease.

In the event that a lessee, occupant or person living with the lessee violates a provision of the Declaration, By-Laws or rules and regulations adopted pursuant thereto, the Board shall have the power to bring an action or suit against the lessee and/or Owner to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity, including, but not limited to, all remedies available to a landlord upon the breach or default of the lease agreement by the lessee.

The Board of Directors shall also have the power to impose reasonable fines upon the lessee and/or Owner for any violation by the lessee, occupant, or person living with the lessee of any duty imposed under the Declaration, By-Laws, or rules and regulations adopted pursuant thereof, and to suspend the right of the Owner, lessee, occupant or person living with the lessee to use the Common Area.

Section 13. Notice. any notice required or desired to be given under this Declaration shall be in writing and shall be deemed to have been properly served when (i) delivered in person and receipted for, or (ii) three (3) days after deposit in the United States Mail, certified, return receipt requested, postage prepaid, addressed, if to an Owner, to its last known address as shown on the records of the Association at the time of such mailing or, if to the Association, to its President, secretary or registered agent. The initial address for the Association and Declarant shall be:

Mr. James R. Harris  
6300 Ridglea Place, Suite 1212  
Fort Worth, Texas 76116

and such address for the Association and Declarant shall be effective unless and until a supplement to this Declaration shall be made and filed in the Real Property Records of Tarrant County, Texas, specifying a different address for the party filing such Supplement (in which event such address specified in such Supplement shall be the address, for the purposes of this Section 13, for the addressee named in such supplement).

Section 14. Enforcement. The covenants, conditions, restrictions, easements, uses, privileges, Assessments and liens of this Declaration shall run with the land and be binding upon and inure to the benefit of Declarant, the Association, and each Owner of the Properties or any part hereof, their respective heirs, successors and assigns. The enforcement of the provisions of this Declaration shall be vested in the Association. In the event the Association fails or refuses to enforce a provision of this Declaration for a period of thirty (30) days after written notice from Declarant or any Owner, as the case may be, Declarant shall have the right, but not the obligation to enforce such provision. A breach of any of the provisions of this Declaration shall give to the party entitled to enforce such provision,

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the right to bring a proceeding a law or in equity against the party or parties breaching or attempting to breach this Declaration and to enjoin such party or parties from so doing or to cause breach to be remedied or to recover damages resulting from such breach. A breach of this Declaration by an Owner relating to the use or maintenance of any portion of the Properties or part thereof, is hereby declared to be and constitute a nuisance and every public or private remedy allowed by law or equity for the abatement of a public or private nuisance shall be available to remedy such breach. In any legal or equitable proceedings for the enforcement of this Declaration, or to restrain breach thereof, the part or parties against whom judgement is entered shall pay the attorney's fees and costs of the party or parties for whom judgement is entered in such amount as may be fixed by the Court in such proceedings. All remedies provided under this Declaration, including those at law or in equity, shall be cumulative and not exclusive. No party having the right to enforce this Declaration shall be liable for failure to enforce this Declaration.

Section 15. Good Faith Lender's Clause. No violation of this Declaration shall affect any lien or deed of trust of records upon any property subject to assessment or any part of the property, when held in good faith. These liens may be enforced in due course, subject to the provisions of this Declaration.

Section 16. Mergers. If the Association shall merge or consolidate with another association as provided in the Articles of Incorporation, then the Association's properties, assets, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights, and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer any restrictions, together with any declarations of covenants, conditions, and restrictions governing these and any other properties, under one administration. No merger or consolidation shall cause any revocation, change, or addition to this Declaration.

Section 17. Conflict with Deeds of Conveyance, Declarant's Rights. If any part of this Declaration shall be in conflict with any term of a previously recorded deed of conveyance to any portion of the Property, the term of the prior deed of conveyance shall govern, but only to the extent of such conflict. Where rights are reserved to Declarant by the restrictions of this Declaration, Declarant reserves the right to modify such restrictions as necessary in subsequent deeds of conveyance, in which case the terms of the deeds of conveyance shall prevail.

Section 18. Duration. this Declaration shall remain in full force and effect for a term of thirty (30) years from the date this Declaration is recorded in the Office of the County Clerk of Tarrant County, Texas, after which time this Declaration shall be extended automatically for successive periods of ten (10) years each unless and until an instrument signed by the Members entitled to cast no less than three-fourths (3/4) of the aggregate of the votes of both Classes of Membership has been filed for record in the office of the County Clerk of Tarrant County, Texas, agreeing to terminate this Declaration. Such an instrument so filed for record shall become effective on the date stated therein or one (1) year after it is so filed for record, whichever is the later date.

Section 19. Severability. Invalidation of any term or provision of this Declaration by judgement or otherwise shall not affect any other term or provision of this Declaration and this Declaration shall remain in full force and effect except as to any terms and provisions which are invalidated.

Section 20. Gender and Grammar. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

Section 21. Titles. the titles of this Declaration, and of Articles and Sections contained herein, are for convenience only and shall not be used to construe, interpret, or limit the meaning of any terms or provisions contained in this Declaration.

Section 22. Successors in Title. The terms and provisions of this Declaration shall apply to, be binding upon, and inure to the benefit of Declarant and the Association and their respective successors and assigns.

IN WITNESS WHEREOF, this Declaration is executed on this the 10<sup>th</sup> day of March, 1992.

DECLARANT:

ALLEN PLACE JOINT VENTURE

BY: James R. Harris  
JAMES R. HARRIS, Managing Venturer

\*\*\*\*\* JOINDER OF LIENHOLDER \*\*\*\*\*

BANK OF COMMERCE is the holder of alien or liens covering the Property and has executed this Declaration solely to evidence its joinder in, and consent to, the imposition of the foregoing covenants, conditions and restrictions upon such land and that the rights of the undersigned under the lien documents shall be subject to the terms and provisions of this Declaration.

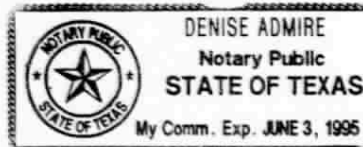
BANK OF COMMERCE

BY: Gene Gray  
GENE GRAY, President

THE STATE OF TEXAS :

COUNTY OF TARRANT :

This instrument was acknowledged before me on the 10<sup>th</sup> day of March, by JAMES R. HARRIS, Managing Venturer, on behalf of ALLEN PLACE JOINT VENTURE, a joint venture.



Denise Admire  
Notary Public, State of Texas

THE STATE OF TEXAS :

COUNTY OF TARRANT :

This instrument was acknowledged before me on the 10<sup>th</sup> day of March, 1992, by GENE GRAY, President of BANK OF COMMERCE, a Texas corporation, on behalf of said corporation.

Glenda Hammonds  
Notary Public, State of Texas  
Notary's Printed Name: \_\_\_\_\_  
My Commission Expires: 10-31-92



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