

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR FOX RUN, SECTION SEVEN**

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

THAT this Declaration of Covenants, Conditions and Restrictions for Fox Run, Section Seven (hereinafter referred to as the "Restrictions") is made on the date hereinafter set forth by MELLON PROPERTIES COMPANY, a Louisiana corporation (hereinafter referred to as "Declarant");

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain real property known as Fox Run, Section Seven (hereinafter referred to as the "Property"), being a subdivision in Montgomery County, Texas, containing 18.1520 acres out of the Montgomery County School Land Survey, Abstract 351, as set forth on the plat thereof recorded in Cabinet J, Sheets 168 and 169, of the Map Records of Montgomery County, Texas; and

WHEREAS, it is deemed to be in the best interests of Declarant and any other persons who may purchase property in Fox Run, Section Seven, that there be established and maintained a uniform plan for the improvement and development of Fox Run, Section Seven, as a highly restricted and modern subdivision of the highest quality;

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Property. These easements, covenants, restrictions, and conditions shall run with said real property and be binding upon all parties having or acquiring any right, title or interest in a Lot, as hereinafter defined, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

The following words, when used in this Declaration of Covenants, Conditions and Restrictions, shall have the following meanings:

Section 1. "Association" shall mean and refer to Fox Run Maintenance Association, Inc., a Texas non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to that property owned or to be acquired by the Association and shall include, but is not limited to, all recreational facilities, community facilities, swimming pools, storage facilities, pumps, trees, landscaping, sprinkler systems, pavements, streets, pipes, wires, conduits, and other public utility lines situated thereon.

**EXHIBIT
PAGE**

"A"

Section 3. "Declarant" shall mean and refer to Mellon Properties Company, its successors and assigns, provided such successors and assigns (i) acquire more than two (2) Lots in the Subdivision for purposes of development or resale, and (ii) are designated as the Declarant by an instrument in writing executed by Declarant, and filed of record in the Official Public Records of Real Property of Montgomery County, Texas.

Section 4. "FHA" shall mean the Federal Housing Administration or any successor federal agency.

Section 5. "Lot" shall mean and refer to any of the numbered lots shown on the Subdivision Plat or any replat thereof.

Section 6. "Living Unit" shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons living together as a single housekeeping unit; provided, however, the term "Living Unit" shall not include a garage constructed on the Lot which is detached from the other improvements on the Lot.

Section 7. "Occupied Lot" shall mean and refer to any Lot on which there is a Living Unit in which one or more persons are residing.

Section 8. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation; however, the term "Owner" shall include any mortgagee or lienholder who acquires fee simple title to any Lot through judicial or nonjudicial foreclosure.

Section 10. "Subdivision" shall mean and refer to that certain real property within the perimeters of the legal description of Fox Run, Section Seven, a subdivision in Montgomery County, Texas, as set forth on the plat thereof recorded in Cabinet J, Sheets 168 and 169, of the Map Records of Montgomery County, Texas (the "Plat"). As used in this Declaration, the term "Subdivision" shall not cover or include any of the Common Area.

Section 11. "VA" shall mean the Veterans Administration or any successor federal agency.

ARTICLE II **PROPERTY RIGHTS**

Section 1. Owner's Easement of Access and Enjoyment. Every Owner shall have an easement of access and a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge a reasonable admission and other fees for the use of any recreational facilities situated on the Common Area;

(b) The right of the Association to suspend a Member's voting rights and rights to use the recreational and other facilities owned or operated by the Association for any period during which any assessment against his Lot or any other sum due the Association by him remains unpaid in excess of thirty (30) days. In the event any assessments have been or are being expended to provide services for the Members (for example, garbage collection services), the Association shall have the right to terminate or cause to be terminated such services for any member during the period said Member is in default in excess of thirty (30) days in payment of any assessment against said Member's Lot. The right of the Association to suspend a Member's voting rights and rights to use the Association's facilities shall extend for a period of sixty (60) days for any infraction of the Association's published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be determined by the Association or by two-thirds (2/3) of the votes cast by each class of the Members of the Association;

(d) The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage such property. In the event of a default under or foreclosure of any such mortgage, the rights of the lender, its successors or assigns, shall be subject to the easement of enjoyment of the Members, subject to such lender's right to charge and collect admission or other fees for the use of such facilities; and

(e) The right of the Association to limit the number of guests of Owners.

Section 2. Delegation of Use. Any Owner may delegate in accordance with the Bylaws of the Association, his right or enjoyment to the Common Area and facilities to members of his family, his tenants, or contract purchasers who reside on the Lot owned by him. The Declarant, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot, by acceptance of a Deed therefore, whether it shall be express in the Deed or the evidence of the conveyance, is deemed to covenant that any lease executed on a Lot shall be in writing and contain provisions binding any lessee thereunder to the terms of this Declaration and any rules and regulations published by the Association applicable to the Common Area, and further providing that noncompliance with the terms of this Declaration and any rules and regulations published by the Association shall be a default thereunder.

Section 3. Rules and Regulations. The Association shall have the right to establish reasonable rules and regulations, and to delegate same to an agent or successor. The Association shall have the right to delegate the management of the Common Area.

Section 4. Title to the Common Area. The Common Area shall be owned by the Association or its successors and assigns, it being agreed that this provision is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area. Notwithstanding the above, the Declarant reserves the right to grant, convey, dedicate or reserve easements over, on or under the Common Area for utility services as set forth in Article XI, Section 1 hereof.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Organization. The Association has been previously organized and is currently existing as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure and management of the maintenance funds, enforcements of the Restrictions, providing for the maintenance, preservation, and architectural control (upon termination of the powers of the Committee as defined herein) within the Subdivision, the general overall supervision of all of the affairs and well-being of the Subdivision and other Subdivisions within its jurisdiction and the promotion of the health, safety and welfare of the residents within the Subdivision and other Subdivisions within its jurisdiction.

Section 2. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in a Lot which is a part of the Subdivision, including contract sellers, shall hold a membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. Any mortgagee or lienholder who acquires title to any Lot which is a part of the Subdivision, through judicial or nonjudicial foreclosure, shall be a Member of the Association.

Section 3. Board of Directors. The Association shall act through a Board of Directors who will manage the affairs of the Association as specified in the Bylaws of the Association.

Section 4. Voting Rights. There shall be one class of membership ("Class A") entitled to voting rights in the Association with respect to the Subdivision. All Owners and Declarant shall be considered Class A Members, and for each Lot owned shall be entitled to one (1) vote on each matter coming before the Members at any meeting or otherwise, unless their voting rights have been suspended by the Board of Directors as hereinabove provided in Article II, Section 1(b). When a particular Lot is owned by more than one individual or entity, all the individuals or entities holding an ownership interest in that Lot shall be considered Class A Members; however, for that particular Lot they shall be entitled to a total of no more than one vote on each matter coming before the Members at any meeting or otherwise. The vote for such Lot shall be exercised as they among themselves determine.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot within the Subdivision which shall be or thereafter become subject to the assessments hereinafter provided for, hereby covenants, and each Owner of any Lot that shall be or thereafter become assessable, by acceptance of a Deed therefor, whether or not it shall be express in the Deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) Annual assessments or charges;
- (b) Special assessments for capital improvements; and
- (c) Any other sums to the extent they are specifically provided for elsewhere in this instrument.

Such assessments or charges are to be fixed, established and collected as hereinafter provided. These charges and assessments, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge on the land and shall be secured by a continuing lien upon the Lot against which such assessments or charges are made. Each such assessment or charge, together with such interest, costs and reasonable attorneys' fees shall also be and remain the personal obligation of the individual or individuals who owned the particular Lot at the time the assessment or charge fee becomes due notwithstanding any subsequent transfer of title to such Lot. Upon a transfer of a Lot, the assessments accrued to the date of transfer must be paid in full. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Subdivision. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums and repair, maintenance and acquisition expenses incurred by the Association, and at the option of the Board of Directors of the Association for any and all of the following purposes: lighting; improving and maintaining streets, alleyways, sidewalks, paths, parks, parkways, and esplanades in the Subdivision and in other subdivisions within its jurisdiction; collecting and disposing of garbage, ashes, rubbish, and materials of a similar nature; payment of legal and all other expenses incurred in connection with the collection, enforcement and administration of all assessments and charges and in connection with the enforcement of this Declaration of Covenants, Conditions and Restrictions; employing policemen or watchmen and/or a security service; fogging and furnishing other general insecticide services; providing for the planting and upkeep of trees and shrubbery on esplanades and in the Common Area; acquiring and maintaining any amenities or recreational facilities that are or will be operated in whole or in part for the benefit of the Owners; and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the property in the Subdivision and in other subdivisions within its jurisdiction in neat and good

order or which they consider of general benefit to the Owners or occupants of the Subdivision and in other subdivisions within its jurisdiction, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. Such funds may also be used to repair, maintain and restore abandoned or neglected residences and Lots as hereinafter provided, it being understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Basis and Maximum Level of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum annual assessment shall be Two Hundred Six and 00/100 Dollars (\$206.00) per Lot. From and after the first day of January of the year immediately following the date of commencement of the first annual assessment, the maximum annual assessment may be increased by the Board of Directors of the Association, effective the first day of January of each year, by an amount up to a five percent (5%) increase over the prior year's annual assessment, without a vote of the Members of the Association. The maximum annual assessment may be increased above the above-mentioned percentage increase only by approval of two-thirds (2/3) of each class of Members in the Association present and voting at a meeting duly called for this purpose. In lieu of notice and a meeting of Members as provided in the Bylaws of the Association, a door-to-door canvass may be used to secure the written approval of two-thirds (2/3) of each class of Members for such increase in the annual assessment or in the special assessment for capital improvements as provided below. This increase shall become effective on the date specified in the document evidencing such approval only after such document has been filed for record in the Office of the County Clerk of Montgomery County, Texas. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount approved by the Members.

Anything contained in this Declaration to the contrary notwithstanding, the maximum annual assessment shall be chargeable and payable as follows:

(a) Occupied Lots: Those Lots containing an occupied Living Unit (that is, a Living Unit that has been initially occupied, although it may no longer be occupied) shall be assessed the full assessment as set by the Board of Directors of the Association; and

(b) Completed Living Unit: Those Lots containing a substantially completed but unoccupied Living Unit (that is, a Living Unit that has not been initially occupied) shall be assessed fifty percent (50%) of the full assessment as set by the Board of Directors of the Association; and

(c) Vacant Lots: Those Lots which are vacant or upon which a residence is under construction shall be assessed at a rate equal to fifty percent (50%) of the full assessment as set by the Board of Directors of the Association. If such Owner fails to maintain said Lot in accordance with the requirements set forth in this Declaration, the

Association is hereby authorized to do so and any expense the Association incurs thereby shall become a lien on the Lot and the general personal obligation of said Owner.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Board of Directors of the Association may levy, in any assessment 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, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of two-thirds (2/3) of each class of Members of the Association.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 which requires a vote of the Members shall be sent to all Members not less than thirty (30) days or more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes or each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement and Determination of Annual Assessment. The annual assessment provided for herein shall commence as to all Lots on a date fixed by the Board of Directors of the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year at least thirty (30) days in advance of each annual assessment period. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose Lot is subject to the payment thereof; however, the failure by the Board of Directors of the Association to fix an annual assessment for any year will not be deemed a waiver with respect to any of the provisions of this Declaration or a release of liability of any Owner to pay annual assessments, or any installments thereof, for that or any subsequent year. In the event of such failure, each Owner shall continue to pay the annual assessment established for the previous year until the new annual assessment is established. The new annual assessment established by the Board of Directors of the Association shall be applied retroactively to the commencement of the then current assessment year and the deficit shall be paid by each Owner within thirty (30) days after receipt of a statement therefor. Assessments shall be due and payable yearly in advance on the first day of January or as directed by the Board of Directors of the Association. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest from the due date until paid at the maximum rate permitted by law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien herein retained against the Lot. Interest, costs and reasonable attorneys' fees incurred in any such action shall be added to the amount of such assessment or charge. In order to secure the payment of the assessments or charges hereby levied, a vendor's lien for the benefit of the Association, shall be and is hereby reserved in the Deed from the Declarant to the purchaser of each Lot or portion thereof, which lien shall be enforceable through appropriate judicial and nonjudicial proceedings by the Association. As additional security for payment of the assessments hereby levied, each Owner of a Lot in the Subdivision, by such party's acceptance of a deed thereto, hereby grants the Association a lien on such Lot which may be foreclosed on by nonjudicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property Code (and any successor statute); and each such Owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with nonjudicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice President of the Association and filed for record in the Real Property Records of Montgomery County, Texas. In the event that the Association has determined to foreclose the lien nonjudicially as provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale not less than twenty-one (21) days prior to the date of which sale is scheduled by posting such notice through the U.S. Postal Service, postage prepaid, registered or certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association. If required by law, the Association or Trustee shall also cause a copy of the Notice of Trustee's Sale to be recorded in the Real Property Records of Montgomery County, Texas. Out of the proceeds of such sale, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorneys' fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount of default; third, any amounts required by law to be paid before payment to the Owner; and, fourth, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Lot foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In addition to foreclosing the lien hereby retained, in the event of nonpayment by any Owner of such Owner's portion of any assessment, the Association may, acting through its Board of Directors, upon ten (10) days' prior written notice thereof to such nonpaying Owner, in addition to all other rights and remedies available at law or otherwise, restrict the rights of such nonpaying Owner to use the Common Areas, if any, in such manner as the Association deems

fit or appropriate and/or suspend the voting rights of such nonpaying Owner so long as such default exists.

It is the intent of the provisions of this Section 7 of Article IV to comply with the provisions of Section 51.002 of the Texas Property Code hereafter, and the President or any Vice President of the Association, acting without joinder of any other Owner or mortgagee or other person, may, by amendment to this Declaration filed in the Real Property Records of Montgomery County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot. In addition to the above rights, the Association shall have the right to refuse to provide the services of the Association to any Owner who is delinquent in the payment of the above described assessments.

Section 8. Subordination of the Lien to Mortgages. The lien created in this Article IV shall be subordinate to valid purchase money liens or mortgages and any valid lien securing the cost of construction of home improvements. Sale or transfer of any Lot shall not affect said lien; however, the sale or transfer of any Lot which is subject to any valid first purchase money lien or mortgage, or valid lien securing the construction of improvements pursuant to a judicial or nonjudicial foreclosure under such lien or mortgage, or any conveyance in satisfaction of such debt (commonly called a "deed in lieu of foreclosure") shall extinguish the lien securing such assessment or charge only as to payments which became due prior to such sale or transfer and additionally shall not cause a merger of such lien with the title conveyed in satisfaction of such debt. No sale or transfer shall relieve such Lot or the Owner thereof from liability from any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided hereinabove, 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 the Board of Directors may determine. A Mortgagee shall not be required to collect any of the charges or assessments imposed against a Lot.

Section 9. Exempt Property. All properties dedicated to and accepted by a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges.

ARTICLE V INSURANCE

The Association, through its Board of Directors or its duly authorized agent, shall have the authority to obtain the following types of insurance policies:

- (a) Property insurance covering the Common Area and all improvements thereon in an amount equal to the full replacement value of the improvements and

facilities located upon the Common Area and owned by the Association (including all building service equipment and the like) with an "agreed amount endorsement" or its equivalent, a "demolition endorsement" or its equivalent and, if necessary, an "increased cost of construction endorsement" or "contingent liability from operation of building laws endorsement" or its equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement in Texas, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and other risk as shall be customarily carried with respect to projects similar in construction, location and use; and

(b) A comprehensive policy of public liability insurance covering all of the Common Area and insuring the Association, within such limits as it may consider acceptable (for all claims for personal injury and/or property damage arising out of a single occurrence); such coverage to include protection against water damage liability, liability for nonowned and hired automobiles, liability for property of others, and any other coverage the Association deems prudent and which is customarily carried with respect to projects similar in construction, location and use; and

(c) A policy of fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle, or are responsible for handling funds of the Association; such fidelity bonds shall be of the kind and in an amount the Association deems necessary for the protection of the Owners.

(d) Premiums for all such insurance policies carried by the Association shall be a common expense payable from the annual assessments on all of the Lots. Liability and property insurance for Lots and the contents of residences shall be the responsibility of each individual Owner. All proceeds from policies held by the Association shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two (2) of the members of the Board of Directors of the Association, or by an agent duly authorized by the Board of Directors. In no event shall the insurance company or the bank or other financial institution holding proceeds of a policy issued in the name of the Association be authorized to distribute any proceeds therefrom to the Declarant. Proceeds from such policies shall be used by the Association only for the benefit of its Members, and where such proceeds arise out of an occurrence in which a building or improvement owned by the Association is damaged or destroyed, such proceeds shall be used to repair, restore and rebuild such building or improvements. In the latter event, the Board of Directors shall advertise for sealed bids from licensed contractors, and upon acceptance of a bid received thereby, may negotiate with the contractor, who shall be required to provide full performance and payment bonds for the repair, reconstruction or rebuilding of such destroyed improvements or buildings. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding said improvements to their original condition, the Association shall levy a special assessment for capital improvements against all Owners to make up the deficiency, which shall be undertaken only upon compliance with all the requirements for imposition of special assessments.

ARTICLE VI
ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. No building, fence, wall or other structure shall be commenced, erected or maintained on any portion of the Property nor shall any exterior addition to or change or alteration therein be made until the plans or specifications therefor have been submitted for approval by the Board of Directors or by an Architectural Control Committee (herein referred to as the "Committee") comprised of at least three (3) members appointed by the Board of Directors.

Section 2. Duties and Powers. The purpose of the Committee shall be to protect the architectural and aesthetic integrity of the Subdivision in accordance with the provisions of this Declaration. No building, fence, wall, or other structure or improvement of any nature shall be placed, constructed, erected, or maintained on any Lot, nor shall any exterior addition to or change or alteration therein be made until the construction plans and specifications for the same shall have been submitted to and approved in writing by the Committee as to: (a) conformity and harmony of external design and location in relation to surrounding structures and topography, and (b) quality of workmanship and materials. Any plans and specifications to be submitted to the Committee shall specify, in such form as the Committee may reasonably require, the location upon the Lot where the improvements are to be placed and the dimensions thereof, as well as appropriate information concerning the structural, mechanical, electrical, and plumbing details and the nature, kind, shape, height, color scheme, and materials of the proposed improvements or alterations. The Committee shall also have the right, where not otherwise set forth herein, to specify:

- (a) Minimum setbacks;
- (b) The location, height and extent of fences, walls, or other screening devices;
- (c) The orientation of structures and landscaping on Lots with respect to streets, walks, and structures on adjacent properties; however, the Committee shall not require setbacks further away from the streets than any platted building line; and
- (d) A limited number of acceptable exterior materials and/or finishes that may be used in the construction, alteration or repair of any improvement.

Further, no person exercising any prerogative of approval or disapproval by or on behalf of the Committee shall incur any liability by reason of the good faith exercise thereof.

Section 3. Committee Approval. Any approval or disapproval by the Committee or its designated representatives on any of the above matters shall be in writing and either conveyed in person or by first class mail, postage prepaid. In the event said Committee or its designated representatives fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, then such plans and specifications shall be deemed approved. The Committee shall have the right, exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the Committee in good faith

deems that such variance does not adversely affect the architectural and aesthetic integrity of the Subdivision or the common scheme of the development. If the Committee shall approve a request for a variance, the Committee may evidence such approval and grant its permission for such variance only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved, and signed by a majority of the then members of the Committee. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lot(s) and with the Plat. Failure by the Committee to respond within thirty (30) days to a request for a variance shall operate as a denial of the variance.

Section 4. No Implied Waiver or Estoppel. No action or failure to act by the Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Committee or the Board of Directors with respect to the construction of any improvements within the Subdivision. Specially, the approval by the Committee or the Board of Directors of any such residential construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar residential construction or any similar proposals, plans, specifications, or other materials submitted with respect to any other residential construction by such person or other Owner.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. Obligation. All Living Units and other buildings located within the Subdivision must be kept in good repair and must be painted when necessary to preserve their attractiveness. Grass, vegetation and weeds on each Lot shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. All damaged, diseased beyond recovery, or dead trees shall be cut and removed from any Lot at the expense of Owner. Vacant Lots shall be mowed and maintained in good appearance by the Owner and shall not be used for dumping of rubbish, trash, rubble, or soil, except that Declarant or the Committee may designate fill areas into which materials specified by Declarant or the Committee may be placed. The Association may plant, install and maintain shrubbery and other screening devices around utility boxes, transformers and other above-ground utility equipment. The Association shall have the right to enter upon the Lots to plant, install, maintain, and replace such shrubbery or other screening devices. Owners of residences shall construct and maintain a fence or other suitable enclosure to screen from public view the drying of clothes, yard equipment, and wood pile or storage piles.

Section 2. Failure to Maintain. In the event any Owner of any Lot in the Subdivision fails to maintain the Lot and the improvements situated thereon in a manner satisfactory to the

Board of Directors of the Association, the Association, after seven (7) days' written notice to the Owner of said Lot, setting forth the action intended to be taken by the Association and after approval by a two-thirds (2/3) vote of the Board of Directors, shall have the right, but not the obligation, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements located thereon. To the extent necessary to (a) prevent infestation by insects, rats and other vermin or pests; (b) diminish fire hazards; and (c) accomplish any of the needed repair, maintenance and restoration, the Association shall have the right, but not the obligation, through its agents and employees, to enter any residence or improvement located upon such Lot. Neither the Association nor its agents or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized in this Article. The cost of such exterior maintenance and other work shall be the personal obligation of the Owner of the Lot on which it was performed and shall become a part of the assessment payable by said Owner and secured by the liens herein retained.

ARTICLE VIII **USE RESTRICTIONS**

Section 1. Residential Use. Every Lot in the Subdivision is hereby restricted to one residential dwelling for single-family residential use only. As used herein, the term "residential use" shall be held and construed to exclude hospitals, clinics, apartment houses, duplex houses, garage apartments used for rental purposes, boarding houses, hotels, and commercial and professional uses whether from homes, residences, or otherwise, and all such uses of said property are hereby expressly prohibited.

Section 2. Business Activity. No business activities of any kind whatsoever shall be conducted in any portion of the Subdivision; provided, however, the foregoing covenant shall not apply to the business activities of the Declarant, its agents and assigns, during the construction and sale period, or of the Association, its successors and assigns, in furtherance of its powers and purposes as herein set forth.

Section 3. Common Area. The Common Area shall not be used for any commercial purposes; however, this provision shall not preclude the Association from charging reasonable fees for the use of the recreational facilities which are part of the Common Area.

Section 4. Exemption for Sale of Lots. Notwithstanding any provisions herein contained to the contrary, it shall be permissible for Declarant or the builder of any residence to maintain during the period of construction and sale of Lots within the Subdivision upon any portion of a Lot such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of improved Lots including, without limitation, a business office, storage area, construction yards, model units, and a sales office.

Section 5. Animals and Livestock. The raising, breeding or keeping of animals, livestock or poultry of any kind on any Lot in the Subdivision is strictly prohibited; provided, however, consistent with the Living Unit's use as a residence, dogs, cats and other household pets

may be kept on a Lot, provided they are not kept, bred or maintained for any commercial purposes, and further provided, no more than two (2) such pets shall be kept on a Lot. All pets must be properly vaccinated and tagged for identification and penned in an approved enclosure. No pet may be chained or leashed outside an enclosure unless being walked on a leash. Whenever a pet is removed from its enclosure, it must be in the possession of its owner or the owner's agent and must be restrained by a proper leash. The Board of Directors of the Association shall have the authority to authorize the capture and removal of any dogs running loose in the Subdivision without a leash. No other type of animal except small household pets such as hamsters, fish and birds shall be allowed in the Subdivision without the prior written consent of the Board of Directors.

Section 6. Mineral Production. No drilling, development operations or oil refining, quarrying or mining operations of any kind shall be permitted upon any portion of the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any portion of the Subdivision. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the Subdivision. Declarant waives its right to use the surface of any Lot for the exploration, development or production of oil, gas, or other minerals from the mineral estate, if any, owned or retained by Declarant.

Section 7. Disposal of Trash. No portion of the Subdivision shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other wastes. All rubbish, trash, garbage or other waste shall be kept in sanitary containers and out of sight of the Common Area and any street or adjacent Lot, except on days designated by the Association for pick-up of such garbage. For wastes that are prohibited for collection by the Association's refuse hauler, the Owner of each Lot shall remove such prohibited matter from his Lot at his expense at regular intervals or as directed by the Association. No incinerator may be maintained on any portion of the Subdivision.

Section 8. Storage, Parking and Repair of Vehicles. No boat, mobile home, trailer, boat rigging, truck larger than a one (1) ton pickup, bus or unused or inoperable automobiles shall be parked or kept in the street in front of, or to the side of, any Lot or on any Lot. Operable automobiles must be parked in the garage or on the concrete portion of the driveway and shall not be parked in the grass portion of the yard of any Lot. No vehicle may be parked within any part of any street in the Subdivision for more than twenty-four (24) hours at a time, and vehicles shall not be moved from place to place in the Subdivision to avoid the intent of this prohibition. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets other than work of a temporary nature, which shall not exceed forty-eight (48) hours.

Section 9. Construction Activity and Building Materials. Except in an emergency or when unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 a.m. and 10:00 p.m. The Owner shall be responsible for obtaining all building permits or other approvals that may be required prior to such construction activities. No Lot shall be used for storage of any material except that required for landscaping or construction,

which materials shall not be placed or stored upon any Lot until the Owner is ready to commence construction of improvements on the Lot as approved by the Committee, at which time such materials shall be placed within the property lines of the Lot upon which the improvements are to be constructed, and shall not be placed in the street or upon any common areas.

Section 10. Signs. No advertising signs (except not more than one five (5) square foot "For Rent" or "For Sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any portion of the Subdivision. Declarant and the Association, however, shall have the right to erect identifying signs at each entrance of the Subdivision, and Declarant may place and maintain, or permit to be placed and maintained, such builder advertising signs as it may desire in its sole discretion in connection with the construction of homes in the Subdivision. The Board of Directors of the Association shall have the right to enter upon any Lot for the purpose of removing any sign being maintained thereon which violates this Section. In no event shall the Association or its Board of Directors be liable to any person or persons for any damages of whatever nature for removing such signs in a reasonable manner.

Section 11. Clotheslines. No outside clothesline shall be erected or maintained on any Lot within sight of the Common Area or any street or adjacent Lot.

Section 12. Nuisances. No noxious or offensive trade or activity shall be carried on upon any portion of the Subdivision, nor shall anything be done thereon which may become an annoyance or nuisance to the residents of the Subdivision or in any way endanger the health, safety, and welfare of the residents.

Section 13. Prohibited Conduct. No portion of the Subdivision shall be used for vicious, illegal or immoral conduct, or for any conduct in violation of the laws of the State of Texas, or the United States, or of the police, health, sanitary, building, or fire codes, regulations or instructions relating to or affecting the use, occupancy or possession of any portion of the Subdivision.

Section 14. Control of Sewage Effluent. No outside toilets or privies shall be permitted. Disposal or discharge of wastewater from any Lot that would result in raw, untreated, or partially treated sewage being carried into the streets or any land of the Subdivision or into any body of water is strictly prohibited. Drainage of storm water into the sanitary sewage system shall not be permitted; provided, however, that swimming pool drains and backwash systems shall be connected to the sanitary sewer system. No septic tank or other means of sewage disposal not connected to the sanitary system will be permitted.

Section 15. Water Supply. No individual water supply system shall be permitted on any Lot.

Section 16. Obstruction of Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior written consent of the Board of Directors of the Association.

Section 17. Non-Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

Section 18. Fireworks. No fireworks of any kind shall be discharged on the Lots, Common Areas, or elsewhere within the Subdivision. For purposes of this section, "fireworks" shall mean any flammable, explosive, or combustible device or material capable of producing a striking display of light, noise or smoke.

ARTICLE IX ARCHITECTURAL RESTRICTIONS

Section 1. Type of Living Unit. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling of not more than two (2) stories. Every residence shall have an attached or detached enclosed garage for at least two (2) full sized automobiles. Carports on Lots shall not be permitted. All structures shall be of new construction and no structure shall be moved from another location onto any Lot.

Section 2. Type of Construction. Exterior walls may be of masonry, brick, wood, or other suitable material approved by the Committee and, unless otherwise approved by the Committee, the surface area of all exterior walls of the Living Unit shall consist of at least fifty-one percent (51%) brick or masonry. No garage or accessory building shall exceed in height the dwelling to which it is appurtenant without the written consent of the Committee. Every garage and permitted accessory building (except a greenhouse) shall correspond in style and architecture with the dwelling to which it is appurtenant. No structure of any kind or character that incorporates frame construction on the exterior shall be erected on any Lot unless such structure received at least two coats of paint at the time of construction or the exterior is of redwood or cedar material.

Section 3. Dimensions of Living Units. Unless otherwise approved by the Committee, no residential structure shall be erected, altered, placed, or permitted to remain on any Lot located in the Subdivision unless its living area has a minimum of fifteen hundred (1,500) square feet of usable floor space exclusive of porches and garage, and, in the case of a two-story structure, at least six hundred (600) square feet on the ground floor.

Section 4. Location of Living Unit on Lot. Except as may be authorized in writing by the Committee, no building or structure shall be located nearer to any front, side or rear Lot line than as permitted by the utility easements and the setback lines shown on the recorded Plat of the Subdivision. Should two or more adjoining building sites be owned by the same or substantially the same Owner or Owners, said Owner or Owners shall be permitted to erect a structure across the building site lines common to the sites owned by said Owner or group of owners, and such construction shall not be considered to be in violation of the side or rear setback restrictions described above, so long as such improvements or structures are determined to consist of one continuous building, which determination shall be in the sole discretion of the Committee. Except as expressly approved in writing by the Committee, this provision shall in no way affect or change the side or rear setback lines hereinabove set forth, and these setback

lines shall continue to apply to any building site or a group of building sites under the same or substantially the same ownership. For the purposes of these Restrictions, the front of each Lot shall coincide with and be the property line having the smallest dimension abutting a street. The Committee shall be empowered to grant exceptions for minor variances, up to one (1) foot in any direction in house locations. The front building setback line shall be as hereinabove required. The Living Unit shall not be located on the Lot nearer than five (5) feet from either side property line except that on all corner Lots no structure shall be erected nearer than ten (10) feet from either side line abutting a street. No habitable portion of a dwelling shall be located on any interior lot nearer than twenty (20) feet from the rear lot lines. No dwelling shall be located on any Lot within any utility easement located along the rear lot line. For purposes of this covenant, eaves, steps and porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

Section 5. Metal Buildings. No metal buildings of any type shall be placed or constructed upon any Lot which is visible from any street or adjoining Lot.

Section 6. Roof Material. Roofs of all residences shall be constructed so that the exposed material is of a material and grade that complies with the FHA and VA guidelines in force on the date of construction of the roof involved, and of a color acceptable to the Committee.

Section 7. Driveways. Unless the Committee agrees otherwise, each Lot shall have driveway access to the street on which the Living Unit constructed thereon faces and shall not have driveway access to a street on which it may side, except that garages and driveways on the corner Lots may face the side street. Subject to the foregoing limitation, the Owner of each Lot shall construct and maintain at his expense a driveway from his garage to the street, including the portion of the street right-of-way, such driveway to have a minimum width of not less than nine (9) feet. The Owner shall repair at his expense any damage to the street occasioned by connection of the driveway thereto.

Section 8. Sidewalks. Before construction of any dwelling unit upon any Lot is complete, the Owner shall construct in the adjacent street right(s)-of-way a concrete sidewalk four (4) feet in width, parallel to the street curb. The sidewalk shall extend the full width of the Lot and on lots that abut on more than one street, the sidewalk shall extend the full width and depth of the Lot and up to the street curb at the corner. The sidewalk shall be constructed in accordance with specifications published by the Committee, if any, Montgomery County and any other federal, state or local agency having jurisdiction.

Section 9. Curb Ramps. If required by applicable federal, state or local law, curbs with accompanying sidewalks shall have curb ramps (depressions in the sidewalks and curb) at all crosswalks to provide safe and convenient movement of physically handicapped persons confined to wheelchairs. Such curb ramps will be provided at the time of construction of any sidewalks and shall be constructed in accordance with specifications provided by the applicable governmental authority.

Section 10. Traffic Sight Areas. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the street shall be permitted to remain on any corner Lot within the triangular area formed by the two (2) Lot lines abutting the streets and a line connecting them at points twenty-five (25) feet from their intersection or within the triangular area formed by the Lot line abutting a street, the edge line of any driveway or alley pavement and a line connecting them at points ten (10) feet from their intersection.

Section 11. Screening Fences. No fence or wall shall be erected on any Lot nearer to the street than the building setback lines as shown on the Plat. The erection of chain link fences facing upon a street is prohibited. Except as otherwise provided herein, plants, fences or walls utilized in protective screening areas as shown on the Plat or as required by FHA or VA shall be maintained to form an effective screen for the protection of the Subdivision throughout the entire length of such areas by the owners of the Lots adjacent thereto at their own expense. If the FHA or VA shall require said protective screening areas, then, whether or not the residence on any Lot affected by the screening requirements is built according to FHA or VA specifications, all screening devices shall be constructed according to FHA or VA requirements. Owners of residences shall construct and maintain a fence or other suitable enclosure to screen from public view the drying of clothes, yard equipment, wood piles or other storage piles.

Section 12. Exterior Antennas. Without the prior written approval of the Committee, no exterior television antenna, television satellite reception disc or radio antenna of any sort shall be placed, allowed or maintained upon any portion of the improvements and structures to be located in the Subdivision, other than one conventional television antenna, which antenna must be erected in such a manner so that it is not visible from the street and is not more than fifteen (15) feet in height.

Section 13. Temporary Structures. Except as otherwise permitted under Article VIII, Section 4, no structures of a temporary character, including tents, shacks, barns, or other outbuildings shall be placed on any Lot located within the Subdivision except for such temporary buildings utilized by the Declarant or the builder of any residence during the period of construction. Trailers, mobile homes, motor homes, or other similar vehicles shall not be used on any Lot at any time as a residence, either temporarily or permanently.

Section 14. Air Conditioners. No window or wall type air conditioners visible from any street shall be permitted.

Section 15. Mailboxes and Identifying Numbers. Mailboxes, house numbers and similar appurtenances used in the Subdivision must be harmonious with the overall character and aesthetic appeal of the community as determined by the Committee in its sole discretion. In the event the U.S. Postal Service requires the installation of some type of centralized mail delivery service, such as Neighborhood Box Units, then, in that event, the concrete slabs upon which such units are to be placed will be constructed by Declarant within the street right-of-way, and the Owner of the Lot abutting the immediate area where such slab and unit is located shall be responsible to maintain the appearance of the area surrounding such unit.

Section 16. Private Utility Lines. All electrical, telephone, cable television and other utility lines and facilities which are located on a Lot, and are not owned by a governmental entity or a public utility company, shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Committee.

Section 17. Solar Collectors. No solar collectors shall be installed without the prior written approval of the Committee. Such installation shall be consistent with the design of the residence. Whenever reasonably possible, solar collectors shall be installed in a location that is not visible from the public street in front of or to the side of any residence.

Section 18. Grass. The Owner of each Occupied Lot shall solid sod with grass the area between the front of the residence and curb line of the abutting street. The grass shall be of a type and within standards prescribed by the Committee. Additionally, no landscaping shall be installed, removed, replaced, altered or modified unless the plans thereof have been approved by the Committee. Grass and weeds shall be properly maintained to prevent unsightly appearance. Vacant Lots shall be mowed and maintained in appearance by the Owner. Dead or damaged trees or other shrubbery which might create a hazard to the property or persons within the Subdivision shall be promptly removed upon written request by the Association. If grass is not mowed and edged by the Owner, or if dead or damaged trees or shrubs are not removed by Owner, within ten (10) days after written request by the Declarant or the Association, the Declarant or the Association shall have the right to mow the grass or remove such trees and/or shrubbery at the Owner's expense and add the cost thereof to Owner's assessment. The Association and the Declarant shall not be liable for damage caused by such activities.

ARTICLE X MANAGEMENT AGREEMENTS

Each Owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association for the management of the Common Area and the facilities located thereon. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that the Association may cancel said management agreement by giving the other party thirty (30) days' written notice when so authorized by the vote of a majority of the membership votes in the Association entitled to be cast at a meeting of the Members or otherwise. In no event shall such management agreement be cancelled prior to the time the Association or its Board of Directors negotiate and enter into a new management agreement which is to become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be for a term not to exceed one (1) year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type.

ARTICLE XI
EASEMENTS

Section 1. General. Declarant shall have the right to grant, convey, dedicate or reserve easements over, on or under any part of the land in the Subdivision for streets and/or for electric light and power, telephone, natural gas, water, sanitary sewer, storm sewer, cable television, and other utility lines and facilities by separate recordable document for a period of ten (10) years after the date this Declaration is filed of record in the Official Public Records of Real Property of Montgomery County, Texas, regardless of whether at such time Declarant has title to the land within the easement(s). Thereafter, the Association shall have the power and authority to grant such an easement upon the vote of a majority of the membership votes entitled to be cast at any meeting of the Members of the Association or otherwise. An easement is also specifically granted to the United States Postal Service, its agents and employees, to enter upon any portion of the Subdivision in performance of mail delivery or any other postal services. An easement is also granted to all police, fire protection, ambulance, and similar persons to enter upon any portion of the Subdivision in performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company duly selected by the Association, to enter in or cross over the Common Area and/or any Lot to perform the duties of maintenance and repair as provided for herein. The easements provided for in this Article shall in no way affect any other recorded easements covering any portion of the Subdivision.

Section 2. Underground Electric Service. Underground single phase electric service shall be available to all dwellings or structures located in the Subdivision. The electric company shall have, and there is hereby dedicated, a two-foot wide underground easement along and centered on the underground electrical power service conductor installed and running from the electric company's easement shown on the recorded Plat of the Subdivision to the designated point of service on the dwelling or structure. This easement shall be for the maintenance of the electric company's conductors and metering equipment. This two-foot easement for underground electrical service may be crossed by driveways, walkways and patio areas, provided the Declarant or builder makes prior arrangements with the electric company furnishing such service; however, this easement shall be kept clear of all buildings. Neither the Declarant nor the electric company using this easement shall be liable for any damage done by either of them, or their respective assigns, agents, employees, or servants, to shrubbery, trees, flowers, or other improvements located on the land covered by such easement. The underground electrical distribution system shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. The Owner of each Lot containing a single dwelling unit shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by

designation on the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit shall at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the Subdivision, the electric service to each dwelling unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed or will install the underground electric distribution system in the Subdivision at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Subdivision is being developed for residential dwelling units, which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent. Should the plans of the Declarant in the Subdivision be changed so as to permit the erection therein of one or more mobile homes, Company shall not be obligated to provide electric service to any such mobile home unless (a) Developer has paid to the electric company an amount representing the excess in cost, for the entire Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision or (b) the Owner of each affected lot, or the applicant for service to any mobile home, shall pay to the electric company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot or dwelling unit over the cost of equivalent overhead facilities to serve such lot or dwelling unit, plus (2) the cost of rearranging, and adding any electric facilities serving such lot, which arrangement and/or addition is determined by electric company to be necessary. Further, all of the Subdivision shall be subject to such easements, restrictions, covenants, and conditions that are required to be imposed against the Subdivision by Declarant in any agreement entered into with Houston Lighting and Power Company for the delivery of underground electrical service to the Subdivision (the "Utility Agreement"). Accordingly, the recordation of any such Utility Agreement in the Official Public Records of Real Property of Montgomery County, Texas, shall constitute an amendment to the Declaration that includes in this Declaration and imposes against the Subdivision any and all easements, restrictions, covenants, and conditions required under said Utility Agreement.

Section 3. Cable Service. Declarant reserves the right to hereafter enter into a franchise or similar type agreement with one or more cable television companies, and Declarant shall have the right and power in such agreement or agreements to grant such cable television company or companies the uninterrupted right to install and maintain cable communications and related ancillary equipment and appurtenances within the utility easements or rights-of-way reserved and dedicated herein and in the Plat referenced above. Declarant agrees to transfer and assign any such agreement to the Association, and Declarant does hereby reserve unto the Association the sole and exclusive right to obtain and retain all income, revenue, and other things

of value paid or to be paid by such cable television company or companies pursuant to any such agreements between Declarant or the Association and such cable television company or companies.

ARTICLE XII ANNEXATION

Additional property and Common Area may be annexed into the jurisdiction of the Association upon the favorable vote of two-thirds (2/3) of each class of Members at a meeting of the Members or otherwise; provided, however, the additional residential property or Common Area that is a part of a general plan submitted to and approved by the FHA and VA may be annexed by the Declarant without approval by Members of the Association. Annexation of additional property to this Subdivision shall encumber said property with all of the covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration and shall become effective on the date an instrument signed and acknowledged by the owner of said annexed property and the appropriate annexing authority (either Declarant or the Association) is filed for record in the Official Public Records of Montgomery County, Texas, evidencing the annexation. Each such instrument evidencing the annexation of additional property shall describe the portion of the property comprising the Lots and Common Area. The funds resulting from any assessment, whether annual or special, levied against any property hereinafter annexed to the Subdivision may be combined with the funds collected from the Owners of Lots in the Subdivision and may be used for the benefit of all property and all Owners in the manner hereinabove provided.

ARTICLE XIII GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by reason of the provisions contained in this Declaration of Covenants, Conditions and Restrictions. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter. Costs and reasonable attorneys' fees incurred by the Association in any such enforcement action shall be reimbursed to it from any Owner found to be in the violation of the covenants and restrictions contained in this Declaration of Covenants, Conditions and Restrictions. Each such Owner, by his acceptance of a deed to any Lot in the Subdivision, 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. No Owner may waive or otherwise avoid liability for the charges provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 2. Duration and Amendment.

(a) The covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration of Covenants, Conditions and Restrictions shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their

respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the date this instrument is filed with the County Clerk of Montgomery County, Texas, for recordation in the Official Public Records of Real Property of Montgomery County, Texas, after which time said covenants, conditions, restrictions, reservations, liens, and charges shall be automatically extended and renewed for successive periods of ten (10) years each, unless prior to said renewal date an instrument signed and acknowledged by the then Owners of not less than two-thirds (2/3) of the total number of Lots in the Subdivision is filed for record with the County Clerk of Montgomery County, Texas, altering, rescinding or modifying said covenants and restrictions in whole or in part as of said renewal date. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that the Owners of two-thirds (2/3) of the total number of the Lots in the Subdivision shall always have the power and authority to amend this Declaration of Covenants, Conditions and Restrictions and such amendment shall become effective on the date an instrument, signed and acknowledged by the then Owners of not less than two-thirds (2/3) of the total number of Lots in the Subdivision, is filed for record in Montgomery County, Texas, so amending this Declaration of Covenants, Conditions and Restrictions. In addition, Declarant shall have the right at any time and from time to time, without the joinder or consent of any other party, to amend this Declaration of Covenants, Conditions and Restrictions by any instrument in writing duly signed, acknowledged, and filed for record in the Official Public Records of Real Property of Montgomery County, Texas, for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, or for the purpose of complying with any statute, regulation, ordinance, resolution, or order of the FHA, the VA, or any federal, state, county, or municipal governing body, or any agency or department thereof; provided, however, that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration of Covenants, Conditions and Restrictions and any supplemental declarations taken collectively, and shall not impair or affect the vested property rights of any Owner or mortgagee of any Owner.

(b) All amendments hereof shall be approved by the FHA and VA while the Declarant retains control of the Subdivision.

Section 3. Canvassing. Where this Declaration of Covenants, Conditions, and Restrictions requires that an instrument be executed by a certain percentage or number of the Members or Owners, such instrument may be circulated among the Members or Owners by a door-to-door canvass and need not be presented at any meeting of the Members or otherwise, provided the Board of Directors of the Association is notified in writing by certified mail, return receipt requested, of the fact that an action is contemplated by a canvassing of the Members or the Owners.

Section 4. Severability. If any provision of this Declaration of Covenants, Conditions and Restrictions or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, neither the remainder of this Declaration of Covenants, Conditions and Restrictions nor the application of such provision to other persons or

circumstances shall be affected thereby, but shall be enforced to the fullest extent permitted by law.

Section 5. Gender and Number. Whenever used, the singular number shall include the plural, and the plural shall include the singular, and the use of any gender shall be applicable to all genders.

Section 6. Headings. The paragraph titles hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing the text of such paragraphs.

Section 7. Agreement of Existing Association. The Fox Run Maintenance Association, Inc., has executed this Declaration to evidence its agreement with the provisions hereof, and its consent to the annexation of Fox Run, Section Seven into the Association. The Association further acknowledges that all Owners of Lots in Fox Run, Section Seven shall have all the privileges, benefits and responsibilities of the owners of any other residential property within the jurisdiction of the Association and that the Association's obligation shall extend to and include all the Property included in Fox Run, Section Seven.

IN WITNESS WHEREOF, this Declaration is executed on this the 23 day of February, 1998.

MELLON PROPERTIES COMPANY,
a Louisiana corporation

By: [Signature]
Name: Clinton D. PENNINGTON
Title: Vice President

ATTEST:

By: _____
Name: _____
Title: _____

FOX RUN MAINTENANCE ASSOCIATION, INC.,
a Texas non-profit corporation

By: _____
Name: _____
Title: _____

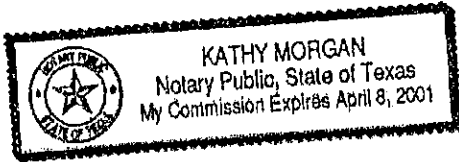
ATTEST:

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on this 23 day of February, 1998,
by Clinton P. Perolator, Vice Pres. of Mellon Properties Company, a
Louisiana corporation, on behalf of said corporation.

Kathy Morgan
Notary Public, State of Texas



Name, Expiration Date, and Seal

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on this _____ day of _____, 1998,
by _____ as _____ of Fox Run Maintenance Association,
Inc., a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

Name, Expiration Date, and Seal

When Recorded Return to:

John R. Wallace, Esq.
Winstead Sechrest & Minick P.C.
2400 Bank One Center
910 Travis Street
Houston, Texas 77002

HO980260036
021198 v12
365:19064-10

FILED FOR RECORD

98 JUL 27 PM 2:54

MARK TURNBULL, CO. CLERK
MONTGOMERY COUNTY, TEXAS

Mark Turnbull
DEPUTY

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in
File Number _____ Sequence _____ on the date and at the time
stamped herein by me and was duly RECORDED in
the official Public Records of Real Property of
Montgomery County, Texas.

JUL 27 1998



Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS