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**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
OLD GALVESTON VILLAS**

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
OLD GALVESTON VILLAS**

THE STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

THIS DECLARATION is made on the date hereinafter set forth by MANCUSO CHAIR GROUP, INC., a Texas corporation d/b/a New Heights Ventures ("Declarant")

WITNESSETH:

WHEREAS, Declarant is the owner of the following real property located in Galveston County, Texas (the "Property"),

Old Galveston Villas, a subdivision in Galveston County, Texas
according to the replat thereof recorded under Plat Record 2004-A,
Map Number 87, of the Map Records of Galveston County, Texas

and,

WHEREAS, Declarant desires to establish and preserve a general and uniform plan for the improvement, development, sale and use of the Property for the benefit of the present and future Owners of the Lots therein;

NOW, THEREFORE, Declarant does hereby declare that the Property shall be held, transferred, sold, conveyed, occupied and enjoyed subject to the covenants, conditions, easements, charges, liens and restrictions hereinafter set forth.

**ARTICLE I
DEFINITIONS**

As used in this Declaration, the terms set forth below shall have the following meanings

A. **ANNUAL MAINTENANCE CHARGE** - The annual assessment made and levied by the Association against each Owner and his Lot in accordance with the provisions of this Declaration

B. **APPOINTED BOARD** - The Board of Directors of the Association appointed by Declarant pursuant to the provisions of Article IV, Section 4.1, of this Declaration.

C. **ARCHITECTURAL REVIEW COMMITTEE** - The Architectural Review Committee established and empowered in accordance with Article III of this Declaration

D. **ASSOCIATION** - Old Galveston Villas Community Association, Inc., a Texas non-profit corporation, its successors and assigns

E. **BOARD or BOARD OF DIRECTORS** - The Board of Directors of the Association, whether the Appointed Board, the First Elected Board or any subsequent Board

F. **BYLAWS** - The Bylaws of the Association

G. **COMMON AREA** - Any real property and improvements thereon owned or maintained by the Association for the common use and benefit of the Owners

H. **DECLARANT** - Mancuso Chair Group, Inc., a Texas corporation d/b/a New Heights Ventures, its successors and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the Official Public Records of Real Property of Galveston County, Texas

I. **FIRST ELECTED BOARD** - The Board of Directors of the Association elected at the First Meeting of the Members of the Association

J. **FIRST MEETING** - The First Meeting of the Association as provided in Article IV, Section 4.4, of this Declaration.

K. **IMPROVEMENT** - A Residential Dwelling, building, structure, fixture, or fence constructed or to be constructed on a Lot, a transportable structure placed or to be placed on a Lot, whether or not affixed to the land; and an addition to or modification of an existing Residential Dwelling, building, structure, fixture or fence on a Lot.

L. **LOT or LOTS** - Each of the Lots shown on the Plat.

M. **MAINTENANCE FUND** - Any accumulation of the Annual Maintenance Charges collected by the Association in accordance with the provisions of this Declaration and interest, penalties, assessments and other sums and revenues collected by the Association pursuant to the provisions of this Declaration

N. **MEMBER or MEMBERS** - All Lot Owners who are members of the Association as provided in Article IV hereof.

O. **MEMBER IN GOOD STANDING** - The Declarant and (a) a Class A Member who is not delinquent in the payment of any Annual Maintenance Charge or Special Assessment levied by the Association against his Lot, or any interest, late charges, costs, or reasonable attorney's fees added to such assessment under the provisions of the Declaration or as provided by law, (b) a Class A Member who does not have any condition of his Lot which violates any provision of the Declaration which has progressed to the stage of a certified demand for compliance by the Association, or beyond, and which remains unresolved as of the date of determination of the Class A Member's standing, and (c) a Class A Member who has not failed to comply with all terms of a judgment obtained against him by the Association, including the payment of all sums due to the Association by virtue of such judgment. A Member who is not in good standing is not entitled to vote at any meeting of the Members of the Association. No formal action by the Board of Directors to suspend the voting rights of a Member who is not in good standing is required.

P. **MORTGAGE** - A security interest, mortgage, deed of trust, or lien instrument granted by an Owner of a Lot to secure the payment of a loan made to such Owner, duly recorded in the Official Public Records of Real Property of Galveston County, Texas, and creating a lien or security interest encumbering a Lot and some or all improvements thereon

Q. **OWNER or OWNERS** - Any person or persons, firm, corporation or other entity or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation

R. **PLAT** - The replat for Old Galveston Villas, recorded under Plat Record 2004-A, Map Number 87, of the Map Records of Galveston County, Texas, and any replat thereof

S. **PLANS** - The final construction plans and specifications (including a related site plan) of any Residential Dwelling or other Improvement of any kind to be erected, placed, constructed, maintained or altered on a Lot

T. **PROPERTY** - All of Old Galveston Villas, a subdivision in Galveston County, Texas, according to the replat thereof recorded under Plat Record 2004-A, Map Number 87, of the Map Records of Galveston County, Texas

U. **RESIDENTIAL DWELLING** - The single family residence and appurtenances constructed on a Lot

V. **RULES AND REGULATIONS** - Rules and Regulations adopted from time to time by the Board concerning the use of the Common Area

W. **SPECIAL ASSESSMENT** - Any Special Assessment as provided in Article V, Section 5.5, of this Declaration

X. **SUBDIVISION** - The Property, together with all improvements now or hereafter situated thereon and all rights and appurtenances thereto

ARTICLE II

GENERAL PROVISIONS RELATING TO USE AND OCCUPANCY

SECTION 2.1. USE RESTRICTIONS.

A. **GENERAL.** The Property shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration.

B. **SINGLE FAMILY RESIDENTIAL USE.** Each Owner shall use his Lot and the Residential Dwelling on his Lot for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the Residential Dwelling for residential purposes. As used herein, the term "unobtrusive" means, without limitation, that there is no business, professional, or commercial related sign, logo or symbol displayed on the Lot; there is no business, professional, or commercial related sign, logo or symbol displayed on any vehicle on the Lot; there are no clients, customers, employees or the like who go to the Lot for any business, professional, or commercial related purpose on any regular basis, and the conduct of the business, professional, or commercial activity is not otherwise apparent by reason of noise, odor, vehicle and/or pedestrian traffic and the like

No Owner shall use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would (i) void any insurance in force with respect to the Subdivision; (ii) make it impossible to obtain any insurance required by this Declaration; (iii) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (iv) constitute a violation of the provisions of this Declaration or any applicable law or (v) unreasonably interfere with the use and occupancy of any Lot in the Subdivision or Common Area by other Owners

Notwithstanding any provision in this Declaration to the contrary, an Owner shall be permitted to lease his Lot. Provided that, every lease shall provide that the lessee shall be bound by and subject to all the obligations under this Declaration and a failure to comply with the provisions of this Declaration shall be a default under the lease. The Owner making such lease shall not be relieved from any obligation to comply with the provisions of this Declaration. This provision relating to leasing shall not be amended without the agreement of Owners representing all (100%) of the Lots.

No Residential Dwelling shall be occupied by more persons than the total number of bedrooms in the Residential Dwelling multiplied by two and one half (2 ½), provided that, this restriction shall not be applicable to the immediate members of a single family. For purposes of this Section, the immediate members of a single family shall only include the husband, wife and children and one (1) domestic worker, caregiver or nanny residing on the Lot.

No garage sale, rummage sale, estate sale, moving sale or similar type of activity is permitted on a Lot.

C. PASSENGER VEHICLES. Except as provided in Article II, Section 2.1, D, below, no Owner, lessee, or occupant of a Lot, including all persons who reside with such Owner, lessee or occupant on the Lot, shall park, keep or store any vehicle on a Lot which is visible from Lillian Lane or another Lot other than a passenger vehicle or pick-up truck and then only if parked on the Lot for a period not exceeding forty-eight (48) consecutive hours. For purposes of this Declaration, the term "passenger vehicle" is limited to a vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas, and a sport utility vehicle used as a family vehicle (whether or not the sport utility vehicle displays a passenger or truck vehicle license plate); the term "pick-up truck" is limited to a one and one-half (1½) ton capacity pick-up truck which has not been adapted or modified for commercial use. No vehicle of any kind shall be parked on Lillian Lane or on an unpaved portion of a Lot for any length of time. The Association shall have the authority to cause any vehicle parked on Lillian Lane in violation of the provisions of this Declaration to be towed in accordance with the provisions of the Texas Transportation Code.

No inoperable vehicle of any kind shall be parked, kept or stored on a Lot if visible from Lillian Lane or another Lot. As used herein, a vehicle is deemed to be inoperable if it does not display all required current permits and licenses, it is on a jack or does not have fully inflated tires, or it is not otherwise capable of being legally operated on a public street or right of way.

D. OTHER VEHICLES. No mobile home trailer, utility trailer, recreational vehicle, boat or the like shall be parked, kept or stored on a Lot more frequently than two (2) days in any seven (7) day period. For purposes hereof, a day shall be deemed to include any day on which a mobile home trailer, utility trailer, recreational vehicle, boat or the like is parked, kept or stored on the Lot more than two (2) hours.

E. VEHICLE REPAIRS. No passenger vehicle, pick-up truck, mobile home trailer, utility trailer, recreational vehicle, boat or other vehicle of any kind shall be constructed, reconstructed, or repaired on a Lot.

F. NUISANCES. No Lot or Residential Dwelling or other improvement on a Lot shall have any conspicuous infestation of pests, rodents, insects or other vermin or accumulation of trash, debris or other waste which the Board of Directors, acting reasonably and in good faith, determines to be offensive to surrounding residents or hazardous to the health or well-being of

surrounding residents. No condition or activity shall be permitted on a Lot which the Board of Directors, acting reasonably and in good faith, determines to be offensive to surrounding residents by reason of noise, odor, dust, fumes or the like. No nuisance shall be permitted to exist or operate on a Lot. For purposes hereof, a nuisance shall be an activity or condition on a Lot which is reasonably considered to be offensive or an annoyance to surrounding residents of ordinary sensibilities and/or which is reasonably determined to reduce the desirability of the Lot.

G. TRASH; TRASH CONTAINERS. No garbage or trash, or garbage or trash container, shall be maintained on a Lot so as to be visible from Lillian Lane or a neighboring Lot except to make the same available for collection and then only the shortest time reasonably necessary to effect such collection. Garbage and trash made available for collection shall be placed in tied trash bags or covered containers, or as otherwise provided in any trash disposal contract entered into by the Association.

H. CLOTHES DRYING. No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on a Lot. No clothes or similar items (such as towels) shall be aired or dried outside.

I. ANIMALS. No animals other than two (2) generally recognized house or yard pets shall be maintained or kept on a Lot and then only if they are kept thereon solely as domestic pets and not for commercial purposes. No exotic animal or breed of animal that is commonly recognized to be inherently aggressive or vicious toward other animals and/or humans is permitted in the Subdivision. No unleashed dog is permitted on the Common Area. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance. No separate structure for the care, housing or confinement of any animal or bird is permitted on a Lot. The Board shall have the authority to determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal or bird is a generally recognized house or yard pet, an exotic animal, an inherently aggressive or vicious animal, or a nuisance, and its reasonable, good faith determination shall be conclusive and binding on all parties.

J. DISEASES AND INSECTS. No Owner shall permit any thing or condition to exist on a Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

K. SUBDIVISION AND CONSOLIDATION OF LOTS. No Lot shall be further subdivided and no portion less than the entirety of a Lot as shown on the Plat shall be conveyed by an Owner to another party. Adjoining Lots shall not be consolidated into a single building site.

L. SIGNS. No sign shall be erected or maintained on a Lot if visible from Lillian Lane or a neighboring Lot except.

- (i) Street signs and such other signs as may be required by law,
- (ii) During the time of construction of a Residential Dwelling on a Lot (defined to be from the date that construction commences until the fourteenth day after substantial completion of the Residential Dwelling) one (1) builder identification sign having a face area not larger than three (3) square feet and located in the front yard of the Lot
- (iii) One (1) "for sale" sign not larger than six (6) square feet and not extending more than three (3) feet above the ground;

- (iv) Ground mounted political signs; provided that, only one (1) sign for each candidate or ballot item shall be displayed on a Lot and no sign shall be displayed on a Lot earlier than the 90th day before the date of the election to which the sign relates or longer than the 10th day after the election date;
- (v) Home security signs and non-commercial holiday and special occasion signs in accordance with any guidelines or regulations (relating to size, number, duration and location) adopted by the Architectural Review Committee.

Seasonal or holiday decorations shall not be displayed on a Lot earlier than the thirtieth (30th) day before the date of the holiday to which the decorations relate or longer than the twentieth (20th) day after the date of the holiday. The Association, its agents or contractors, shall have the authority to go upon a Lot and remove and dispose of any sign or seasonal or holiday decoration displayed on a Lot in violation of this Section without liability in trespass or otherwise.

M. EXEMPTIONS. Nothing contained in this Declaration shall be construed to prevent Declarant, or its duly authorized agents, from erecting or maintaining structures or signs necessary or convenient to the development, advertisement, sale, operation or other disposition of property within the Subdivision. Moreover, any bank or other lender providing financing to Declarant in connection with the development of the Subdivision or Improvements thereon may erect signs on Lots owned by Declarant to identify such lender and the fact that it is providing such financing.

SECTION 2.2. DECORATION, MAINTENANCE, ALTERATION AND REPAIRS.

A. DECORATION/ALTERATIONS. Subject to the provisions of Article III, each Owner shall have the right to modify, alter, repair, decorate, redecorate or improve the Residential Dwelling and other Improvements on such Owner's Lot, provided that all such action is performed with a minimum inconvenience to other Owners and does not constitute a nuisance. Notwithstanding the foregoing, the Board of Directors shall have the authority to require an Owner to remove or eliminate any object situated on such Owner's Lot or the Residential Dwelling or other Improvement on the Lot that is visible from Lillian Lane or another Lot if, in the Board of Directors' reasonable, good faith judgment, such object detracts from the visual attractiveness of the Subdivision.

B. MAINTENANCE AND REPAIR. No Residential Dwelling or other Improvement on a Lot shall be permitted to fall into disrepair, and each such Residential Dwelling or other Improvement on a Lot shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner of the Lot at such Owner's sole cost and expense. The Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining his Lot and the Residential Dwelling and other Improvements on the Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Directors' reasonable, good faith determination shall be conclusive and binding on all parties. In the event the Owner of a Lot fails to keep the exterior of the Residential Dwelling or other Improvement on the Lot in good condition and repair, and such failure continues after not less than thirty (30) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon the Lot and repair and/or paint the exterior of the Residential Dwelling or other Improvement on the Lot and otherwise cause the Residential Dwelling or other Improvement on the Lot to be placed in good condition and

repair, and do every other thing necessary to secure compliance with this Declaration, and may charge the Owner of the Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

SECTION 2.3. TYPE OF CONSTRUCTION AND MATERIALS.

A. TYPES OF BUILDINGS. No building shall be erected, altered, placed or permitted to remain on any Lot other than (i) one detached, single family dwelling not to exceed the height limitations set forth in Section 2.4, paragraph B.

B. STORAGE. Without the prior written consent of the Architectural Review Committee, no building materials of any kind or character shall be placed or stored on a Lot more than fifteen (15) days before the construction of a Residential Dwelling or other Improvement is commenced. All materials permitted to be placed on a Lot shall be placed within the property lines of the Lot. After the commencement of construction of a Residential Dwelling or Improvement on a Lot, the work thereon shall be prosecuted diligently, to the end that the Residential Dwelling or Improvement shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. In any event, substantial completion of a Residential Dwelling on a Lot must be achieved within twelve (12) months of the date of commencement of construction of the Residential Dwelling, unless a longer period is approved in writing by the Architectural Review Committee, substantial completion of any other Improvement must be achieved within six (6) months of the date of commencement of construction of the Improvement, unless a longer period is approved in writing by the Architectural Review Committee. For purposes hereof, construction of a Residential Dwelling or other Improvement shall be deemed to have commenced on the date that any equipment or building material relating to such construction is moved onto the Lot. Also for purposes hereof, a Residential Dwelling shall be deemed to be substantially completed on the date an occupancy permit is issued by any governmental authority having jurisdiction or, if no such occupancy permit is required, the date the Residential Dwelling is ready to be occupied; any other Improvement shall be deemed to be substantially completed on the date the Improvement is capable of being used for its intended purpose. Upon the completion of the construction, any unused materials shall promptly be removed from the Lot.

C. TEMPORARY STRUCTURES. No buildings or structures of a temporary character, trailer (with or without wheels and whether or not attached to a foundation), mobile home (with or without wheels and whether or not attached to a foundation), modular or prefabricated home, tent, shack, barn or other building, other than the permanent Residential Dwelling, shall be placed on a Lot, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto shall be moved onto a Lot from another location. No accessory building, storage shed, play structure or the like is permitted on a Lot. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place and maintain, such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of Residential Dwellings and construction of other improvements in the Subdivision.

D. CARPORTS/GARAGES. No carport shall be constructed on a Lot. A portion of the area under the Residential Dwelling may be enclosed for the purpose of creating a garage only with the prior written approval of the Architectural Review Committee.

E. ANTENNAS. Satellite dish antennas which are forty inches or smaller in diameter and antennas designed to receive television broadcast signals may be installed, provided they are installed in the least obtrusive location that allows reception of an acceptable quality signal. All other antennas are prohibited.

F. EXTERIOR FINISH. The type and color of the building materials used on the exterior of a Residential Dwelling on a Lot must be approved in writing by the Architectural Review Committee prior to construction. Stucco (except stucco built according to the E.F.I.S. system) and Hardi plank are acceptable building materials. All permitted stucco shall be applied to a metal lath with an appropriate air space between the stucco and the paper barrier. All brick, stonework, masonry material and mortar must be approved by the Architectural Review Committee as to type, size, color and application. Concrete steps, stoops or porches must be finished in tile, brick or stone, unless otherwise approved by the Architectural Review Committee. No concrete, concrete block or cinder block shall be used as an exposed building surface. Any concrete, concrete block or cinder block utilized in the construction of a Residential Dwelling shall be finished in the same materials utilized for the remainder of the Residential Dwelling. Metal flashing, valleys, vents and gutters installed on a Residential Dwelling shall blend or be painted to blend with the color of the exterior materials to which they are adhered or attached. Brick or stone on the exterior of a Residential Dwelling may not be painted without the prior written consent of the Architectural Review Committee.

G. EXTERIOR LIGHTING. All exterior lighting on a Lot must be approved by the Architectural Review Committee as to type, location and illumination. No exterior lighting shall be directed toward another Lot or illuminate beyond the boundaries of the Lot on which the lighting fixture is situated.

H. MAILBOXES. It is anticipated that cluster mailboxes shall be used for the Subdivision. If cluster mailboxes are used, individual mailboxes shall not be permitted.

I. ROOFING. The roofing material proposed to be used on a Residential Dwelling on a Lot must be approved in writing by the Architectural Review Committee prior to construction. No plumbing or heating vents, stacks and other projections of any nature shall be placed on the roof on the front of a Residential Dwelling. All such vents, stacks and other projections from the roof of any Residential Dwelling shall be located on the rear roof of such Residential Dwelling and shall blend or be painted to blend with the color of the roofing material.

J. WINDOW TREATMENTS AND DOORS. Reflective glass shall not be permitted on the exterior of a Residential Dwelling on a Lot. No foil or other reflective materials shall be installed on any windows or used for sunscreens, blinds, shades or other purposes except as approved in writing by the Architectural Review Committee. Burglar bars or doors shall not be permitted on the exterior of any windows or doors. No aluminum or metal doors with glass fronts (e.g., storm doors) shall be allowed on the front of a Residential Dwelling.

K. LANDSCAPING.

- (1) The front, side and rear side yards of each Lot shall be sodded with grass.
- (2) Rock or similar hardscape may be incorporated into the landscaping if approved in writing by the Architectural Review Committee; provided that, a solid rock yard or similar type of hardscape is not permitted in the front, side or rear yards of a Lot.

(3) No vegetable, herb or similar gardens or plants shall be planted or maintained in the front, side or rear yards of a Lot.

(4) No Owner shall allow the grass on his Lot to grow to a height in excess of eight (8) inches, measured from the surface of the ground.

L. SWIMMING POOLS AND OTHER AMENITY STRUCTURES. No swimming pool, outdoor hot tub, reflecting pond, sauna, whirlpool, lap pool, and other water amenity structure shall be constructed, installed, and maintained on a Lot without the prior written approval of Architectural Review Committee. Permanent, above-ground swimming pools are not permitted.

M. DRIVEWAYS AND SIDEWALKS. All driveways and sidewalks on a Lot shall be constructed of concrete and paved with concrete, natural stone or unit masonry. Asphalt paving and chert, gravel and loose stone driveways and sidewalks are prohibited. No driveway or sidewalk shall be painted or stained without the prior written approval of the Architectural Review Committee. All driveways and sidewalks on a Lot shall be properly maintained and repaired by the Owner of the Lot. The Board of Directors shall have the authority to determine whether a driveway or sidewalk on a Lot is being properly maintained in accordance with the standards of the Subdivision and its reasonable, good faith determination shall be conclusive and binding on all parties.

N. LOT MAINTENANCE. The Owner or occupant of a Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner. An Owner shall not burn any rubbish, debris, leaves or the like on a Lot. Until the First Meeting of the Members of the Association, as provided in Section 4.4 of this Declaration, Declarant shall have the exclusive authority to determine whether an Owner is maintaining his Lot in a reasonable manner and in accordance with the standards of the Subdivision, and Declarant's determination shall be conclusive and binding on all parties; thereafter, the Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining his Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Directors' determination shall be conclusive and binding on all parties. In the event the Owner or occupant of a Lot fails to maintain the Lot in a reasonable manner as required by this Section and such failure continues after not less than ten (10) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the Lot to be mowed, edged and cleaned, cause the landscaping beds to be weeded and cleaned, cause shrubs and trees to be trimmed or pruned, and do every other thing necessary to secure compliance with the provisions of this Declaration, and may charge the Owner of such Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

O. EXTERIOR COLORS. The color(s) of paint and color impregnation proposed to be used of the exterior of the Residential Dwelling on a Lot must be approved in writing by the Architectural Review Committee prior to application. The Owner of a Lot is required to submit to the Architectural Review Committee a request for approval of the proposed paint color(s), together with paint samples. The Architectural Review Committee shall have the authority to disapprove a proposed paint color if the color is not compatible with colors commonly used on the exteriors of

Residential Dwellings and Improvements in the Subdivision, or if two (2) or more colors proposed to be used on a Residential Dwelling on a Lot are not compatible with each other.

P. **BASKETBALL GOALS.** Basketball goals of all types are prohibited.

Q. **SEPTIC TANKS.** No privy, cesspool or septic tank of any kind is permitted on a Lot

SECTION 2.4. SIZE AND LOCATION OF RESIDENCES.

A. **MINIMUM ALLOWABLE AREA OF INTERIOR LIVING SPACE.** The minimum allowable area of interior living space in a Residential Dwelling shall be two thousand (2000) square feet. For purposes of this Declaration, the term "interior living space" excludes steps, porches, exterior balconies, and the garage, if any.

B. **MAXIMUM ALLOWABLE HEIGHT OF BUILDING.** No Residential Dwelling shall exceed a height of forty (40) feet above finished grade

C. **LOCATION OF IMPROVEMENTS - SETBACKS.** No Residential Dwelling, garage or improvement on a Lot other than fencing and/or landscaping approved by the Architectural Review Committee shall be located nearer to the front property line of the Lot than the building setback shown on the Plat. No Residential Dwelling, garage or improvement on a Lot other than approved fencing and/or landscaping shall be located nearer to the rear property line or a side property line of the Lot than the distance established by the Architectural Review Committee. Notwithstanding the foregoing, the Architectural Review Committee may grant variances from these setbacks, in the manner provided in Article III, Section 3.8, when, in its sole discretion, a variance is deemed necessary or appropriate.

SECTION 2.5. WALLS AND FENCES.

A. **FENCES.** No fence or wall shall be constructed of chain link or wire. No solid wood or other type of solid fence or wall is permitted on a Lot. No fence or wall shall exceed four (4) feet in height. No hedge or pergola that serves as a fence or wall shall exceed four (4) feet in height. The type of materials used in the construction of a fence or wall (including the color thereof) and the location of a fence or wall must be approved in writing by the Architectural Review Committee prior to construction. No fence shall be painted or stained without the prior written approval of the Architectural Review Committee.

B. **MAINTENANCE OF FENCES.** Ownership of any wall or fence erected on a Lot shall pass with title to such Lot and it shall be the Lot Owner's responsibility to maintain such wall or fence. If a fence is located on the property line separating two (2) Lots, the Owners of the two (2) Lots shall have equal responsibility to maintain, repair and/or replace the fence. The Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining a fence or wall on his Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Directors' determination shall be conclusive and binding on all parties. In the event the Owner or occupant of a Lot fails to maintain a fence or wall on the Lot in a reasonable manner as required by this Section and such failure continues after thirty (30) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the fence or wall to be repaired or maintained and to do every other thing necessary to secure compliance with this Declaration, and

may charge the Owner of such Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

SECTION 2.6. RESERVATIONS AND EASEMENTS.

A. UTILITY EASEMENTS. Declarant reserves the utility easements, roads and rights-of-way shown on the Plat for the construction, addition, maintenance and operation of all necessary utility systems including systems of electric light and power supply, telephone service, cable television service, gas supply, water supply and sewer service, including systems for utilization of services resulting from advances in science and technology. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing, replacing, repairing and maintaining all utilities. By virtue of this easement, it shall be expressly permissible for any utility company and other entities supplying services to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, under the land within the utility easements now or from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this Section 2.6 A, no utilities or appurtenances thereto may be installed or relocated in the Subdivision until approved in writing by Declarant or the Board.

B. ADDITIONAL EASEMENTS. Declarant reserves the right to impose further restrictions and dedicate additional easements by instrument recorded in the Official Public Records of Real Property of Galveston County, Texas or by express provisions in conveyances, with respect to Lots that have not been sold by Declarant.

C. CHANGES TO EASEMENTS. Declarant reserves the right to make changes in and additions to all easements for the purpose of aiding in the most efficient and economic installation of utility systems.

D. MINERAL RIGHTS. It is expressly agreed and understood that the title conveyed by Declarant to a Lot or parcel of land in the Subdivision by contract, deed or other conveyance shall not in any event be held or construed to include the title to any oil, gas, coal, lignite, uranium, iron ore, or any other minerals, water (surface or underground), gas, sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any utility or appurtenances thereto constructed by or under authority of Declarant or its agents or Utility Companies through, along or upon said easements or any part thereof to serve said Lot or parcel of land or any other portions of the Subdivision. Declarant hereby expressly reserves the right to maintain, repair, sell or lease such lines, utilities, drainage facilities and appurtenances to any public service corporation or other governmental agency or to any other party. Notwithstanding the fact that the title conveyed by Declarant to any Lot or parcel of land in the Subdivision by contract, deed, or other conveyances shall not be held or construed to include the title to oil, gas, coal, lignite, uranium, iron ore or any other minerals, Declarant shall have no surface access to the Property for mineral purposes.

E. COMMON AREA. The Common Area is reserved for the common use, benefit and enjoyment of the Owners, subject to such reasonable Rules and Regulations governing the use thereof as may be promulgated by the Association. An Owner's right to use the Common Area (as limited by any Rules and Regulations) is appurtenant to title to a Lot. The Association shall have the right to charge a reasonable fee for the use of any facility situated on any Common Area. Each Owner shall observe and comply with any reasonable Rules and Regulations promulgated and published by the Association relating to the Common Area and shall be deemed to acknowledge and agree that all such Rules and Regulations, if any, are for the mutual and common benefit of all Owners.

F. PIER AND DOCK. Subject to the approval of all governmental authorities having jurisdiction, Declarant shall cause a pier and boat dock to be constructed in Offatts Bayou (south of Lots 7 and 8). Upon substantial completion, the pier and boat dock and all rights relating to the pier and boat dock shall be conveyed by Declarant to the Association as Common Area. Each Owner of a Lot shall, by virtue of such ownership, be entitled to the use of one (1) boat slip. Declarant shall designate the boat slip reserved for the exclusive use of the Owner of a particular Lot prior to conveying the pier and boat dock to the Association. Thereafter, Owners may exchange rights to use particular boat slips by written agreement; provided that, in such event, the Owners shall provide a copy of the written agreement to the Association. The right to use a boat slip shall not be sold and no boat slip shall be leased to any person or entity who/that is not an Owner of a Lot. A boat or similar watercraft kept in a boat slip shall be properly maintained in good working order and in proper appearance, as determined by the Board of Directors in its reasonable, good faith judgment. The Owner entitled to use a boat slip shall be responsible for insuring her/his boat or other watercraft. Neither Declarant nor the Association or their respective officers, directors, employees or agents, shall be liable for any loss, by theft or otherwise, or damage to, a boat or other watercraft kept in a boat slip or any items of personal property kept or stored on or in the boat or watercraft. By acceptance of a deed to a Lot, each Owner acknowledges that a boat slip is provided to such Owner for use as a benefit but without any express or implied representation that either Declarant or the Association shall provide any measures to prevent or minimize the risk of loss of or damage to a boat, other watercraft or other personal property kept in a boat slip by theft, vandalism or otherwise. Further, by acceptance of a deed to a Lot, Owner hereby releases Declarant, the Association and their respective officers, directors, employees and agents, from any and all claims for the loss of or damage to any boat, watercraft and other personal property kept in a boat slip and agrees to indemnify and hold Declarant, the Association and their respective officers, directors, employees and agents, harmless from and against any claims resulting from the loss of or damage to any boat, watercraft or other personal property kept in the boat slip by a guest, family member or lessee of Owner. The use of a boat slip shall also be subject to any Rules and Regulations adopted and published by the Board of Directors of the Association. No boat slip shall be modified or altered and no structure of any type shall be attached to or constructed on the pier, the boat dock or a boat slip without the prior written consent of the Board of Directors. Access to the pier and boat dock shall be by the walkway easement upon and across Lots 7 and 8, as shown on the Plat.

ARTICLE III

ARCHITECTURAL APPROVAL

SECTION 3.1. ARCHITECTURAL REVIEW COMMITTEE. The Architectural Review Committee shall consist of three (3) members, all of whom shall be appointed by

Declarant, except as otherwise set forth herein. Declarant shall have the continuing right to appoint all three (3) members until the earlier of (a) the date the last Lot owned by Declarant is sold (except in connection with a conveyance to another party that is a successor Declarant), or (b) the date Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board shall have the right to appoint all members. As long as Declarant has the authority to appoint members of the Architectural Review Committee, members of the Architectural Review Committee may, but need not be, Members of the Association. After Declarant's authority to appoint members of the Architectural Review Committee ceases, members of the Architectural Review Committee must be Members in Good Standing of the Association. Members of the Architectural Review Committee appointed by Declarant may be removed at any time and shall serve until resignation or removal by Declarant. Members of the Architectural Review Committee appointed by the Board may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board.

SECTION 3.2. APPROVAL OF IMPROVEMENTS REQUIRED. In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the development, to establish and preserve a harmonious design for the development and to protect and promote the value of the Property, the Lots and Residential Dwellings and all Improvements thereon, no Improvement of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on a Lot by any Owner, other than Declarant, which affect the exterior appearance of a Lot or the Residential Dwelling or other Improvement on a Lot unless plans and specifications therefor have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article. Without limiting the foregoing, the construction and installation of a Residential Dwelling, sidewalk, driveway, mailbox, deck, landscaping, swimming pool, awning, wall, fence, exterior light, or any other Improvement, shall not be undertaken, nor shall any exterior addition to or change or alteration be made (including, without limitation, painting or staining of any exterior surface) to a Residential Dwelling or other Improvement, unless the plans and specifications for the same have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article.

The Architectural Review Committee shall, in its sole discretion, determine whether the Plans and other data submitted by any Owner for approval are acceptable. One copy of the Plans and related data so submitted to the Architectural Review Committee shall be retained in the records of the Architectural Review Committee and the other copy shall be returned to the Owner submitting the same marked "approved", "approved as noted" or "disapproved". The Architectural Review Committee may establish and change from time to time, if deemed appropriate, a reasonable fee sufficient to cover the expense of reviewing Plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such Plans and to monitor and otherwise enforce the terms hereof (the "Submission Fee").

The Architectural Review Committee shall have the right to disapprove any Plans upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations, failure to comply with any of the provisions of this Declaration or the Architectural Guidelines, if any; failure to provide requested information; objection to exterior design, appearance or materials, objection on the ground of incompatibility of a proposed Improvement with the scheme of development proposed for the Subdivision; objection to the

location of any proposed Improvements; objection to the landscaping plan for such Lot, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of the Residential Dwelling or other Improvement, or any other matter which, in the sole judgment of the Architectural Review Committee, would render the proposed Residential Dwelling or other Improvement inharmonious with the general plan of development contemplated for the Subdivision. The Architectural Review Committee shall have the right to approve any submitted Plans with conditions or stipulations by which the Owner of such Lot shall be obligated to comply and must be incorporated into the Plans for such Residential Dwelling or other Improvement. Approval of Plans by the Architectural Review Committee for Improvements on a particular Lot shall not be deemed an approval or otherwise obligate the Architectural Review Committee to approve similar Plans of any of the features or elements of proposed Improvements for any other Lot within the Subdivision.

Any revisions, modifications or changes in any Plans previously approved by the Architectural Review Committee must be approved by the Architectural Review Committee in the same manner specified above.

If construction a Residential Dwelling or other Improvement has not substantially commenced (e.g., by clearing and grading, pouring of footing and otherwise commencing related construction work) within ninety (90) days of approval by the Architectural Review Committee of the Plans for such Residential Dwelling or other Improvement, then no construction may be commenced (or continued) on such Lot and the Owner of such Lot shall be required to resubmit all Plans for a Residential Dwelling or other Improvement to be constructed on the Lot to the Architectural Review Committee for approval in the same manner specified above.

SECTION 3.3. ADDRESS OF COMMITTEE. The address of the Architectural Review Committee shall be at the principal office of the Association.

SECTION 3.4. FAILURE OF COMMITTEE TO ACT ON PLANS. Any request for approval of a proposed Improvement on a Lot shall be deemed to be approved by the Architectural Review Committee unless disapproval is transmitted to the Owner by the Architectural Review Committee within forty-five (45) days after the date of actual receipt by the Architectural Review Committee of the request at its office. If the Architectural Review Committee requests additional information or materials from an applicant in writing within the specified forty-five (45) day period, the applicant's request shall be deemed to be disapproved, whether so stated in the written communication or not, and a new forty-five (45) day period for review shall not commence until the date of actual receipt by the Architectural Review Committee of the requested information or materials. No approval shall operate to permit an Owner to construct or maintain an Improvement on a Lot that violates any provision of this Declaration, the Architectural Review Committee at all times retaining the right to object to any Improvement on a Lot that violates any provision of this Declaration. After the date that the Board of Directors obtains the authority to appoint the members of the Architectural Review Committee, an applicant shall have the right to appeal an adverse decision of the Architectural Review Committee to the Board of Directors. The Board of Directors shall have the authority to adopt procedures for appeals of decisions of the Architectural Review Committee. In the event of an appeal, the decision of the Board of Directors shall be conclusive and binding on all parties.

SECTION 3.5. PROSECUTION OF WORK AFTER APPROVAL. After approval of a proposed Improvement on a Lot, the proposed Improvement shall be prosecuted diligently and continuously and shall be completed within the time frame approved by the Architectural Review

Committee and in strict conformity with the description of the proposed Improvement in the Plans submitted to and approved by the Architectural Review Committee. No building materials shall be placed upon a Lot until the Owner is ready to commence construction. Owners shall keep the job site and all surrounding areas clean during the progress of construction. All construction trash, debris and rubbish on each Lot shall be properly disposed of at least weekly. In no event shall any used construction material be buried in a Lot or beneath a Residential Dwelling or other Improvement. All construction vehicles must be parked on the Lot or in areas designated by the Architectural Review Committee. Construction on a Lot is permitted only between the hours of 7:00 o'clock a.m. and 9:00 o'clock p.m., Monday through Saturday, unless special permission to proceed with construction at other times is given in writing by the Architectural Review Committee.

SECTION 3.6. INSPECTION OF WORK. The Architectural Review Committee or its duly authorized representative shall have the right to inspect any Improvement on a Lot before or after completion, provided that the right of inspection shall terminate sixty (60) days after the date of substantial completion.

SECTION 3.7. NO IMPLIED WAIVER OR ESTOPPEL. No action or failure to act by the Architectural Review Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Architectural Review Committee or the Board of Directors. Specifically, the approval by the Architectural Review Committee of an Improvement on a Lot shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement on another Lot or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement on a Lot.

SECTION 3.8. POWER TO GRANT VARIANCES. The Architectural Review Committee may authorize variances from compliance with any of the provisions of Article II of this Declaration (except for the provisions relating to single family residential construction and use), including restrictions upon placement of structures, the time for completion of construction of an Improvement on a Lot, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Review Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not (a) operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, (b) affect the jurisdiction of the Architectural Review Committee other than with respect to the subject matter of the variance, or (c) affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations affecting the Lot and any Improvement to be constructed on the Lot.

SECTION 3.9. COMPENSATION OF ARCHITECTURAL REVIEW COMMITTEE MEMBERS. The members of the Architectural Review Committee shall not be compensated for their services but shall be entitled to reimbursement for reasonable expenses actually incurred by them in the performance of their duties, subject to the approval of the Board.

SECTION 3.10. ESTOPPEL CERTIFICATES. The Board of Directors, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Review Committee, shall furnish a certificate with respect to the approval or disapproval of an Improvement on a Lot or with respect to whether an Improvement on a Lot was

constructed in compliance with the provisions of this Declaration and the Architectural Guidelines. Any person, without actual notice of any falsity or inaccuracy of such a certificate, shall be entitled to rely on such certificate with respect to all matters set forth therein.

SECTION 3.11. NONLIABILITY FOR ARCHITECTURAL REVIEW COMMITTEE ACTION. None of the members of the Architectural Review Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Review Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing a matter, the Architectural Review Committee shall not inspect, guarantee or warrant the workmanship of the Improvement, including its design, construction, safety, whether structural or otherwise, conformance with building codes, or other governmental laws or regulations or whether the Improvement is suitable or fit for its intended purpose. Neither Declarant, the Association, the Board, the Architectural Review Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect an Improvement.

SECTION 3.12. CONSTRUCTION PERIOD EXCEPTION. During the course of actual construction of a permitted Improvement on a Lot, and provided construction is proceeding with due diligence, the Architectural Review Committee may temporarily suspend the provisions of Article II contained in this Declaration as to the Lot upon which the construction is taking place to the extent necessary to permit such construction, provided, however, that during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion of construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Subdivision.

ARTICLE IV

MANAGEMENT AND OPERATION OF SUBDIVISION

SECTION 4.1. MANAGEMENT BY ASSOCIATION. The affairs of the Subdivision shall be administered by the Association. The Association shall have the right, power and obligation to provide for the management, administration, and operation of the Subdivision as herein provided for and as provided for in its Certificate of Formation and the Bylaws and Rules and Regulations. The business and affairs of the Association shall be managed by its Board of Directors. The Declarant shall determine the number of Directors and appoint, dismiss and reappoint all of the members of the Board until the First Meeting of the Members of the Association is held in accordance with the provisions of Section 4.4 of this Declaration and a Board of Directors is elected (the Board of Directors appointed by Declarant, at any given time, being referred to herein as the "Appointed Board"). The Appointed Board may engage the Declarant or any entity, whether or not affiliated with Declarant, to perform the day to day functions of the Association and to provide for the management, administration and operation of the Subdivision. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Subdivision as the Board deems reasonably necessary or appropriate to maintain and operate the Subdivision in accordance with the provisions of this Declaration, including without limitation, the right to grant utility and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, patrol services, operation of recreational facilities, or other matters of mutual interest.

SECTION 4.2. MEMBERSHIP IN ASSOCIATION. Each Owner of a Lot, whether one or more persons or entities, shall upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the Association until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership

SECTION 4.3. VOTING OF MEMBERS. Subject to any limitations set forth in this Declaration, each Member other than Declarant shall be a Class A Member entitled to one (1) vote per Lot owned on each matter submitted to a vote of the Members. Declarant shall be a Class B Member having ten (10) votes for each Lot owned. No Owner other than Declarant shall be entitled to vote at any meeting of the Association until such Owner has presented evidence of ownership of a Lot in the Subdivision to the Secretary of the Association. In the event that ownership interests in a Lot are owned by more than one Class A Member of the Association, such Class A Members shall exercise their right to vote in such manner as they may among themselves determine, but in no event shall more than one (1) vote be cast for each Lot. Such Class A Members shall appoint one of them as the Class A Member who shall be entitled to exercise the vote of that Lot at any meeting of the Association. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual written notice to the Board. The Board shall be entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Lot is owned by more than one Class A Member of the Association, and no single Class A Member is designated to vote on behalf of the Class A Members having an ownership interest in such Lot, then the Class A Member exercising the vote for the Lot shall be deemed to be designated to vote on behalf of the Class A Members having an ownership interest in the Lot. All Members of the Association may attend meetings of the Association and all Members in Good Standing may exercise their vote at such meetings either in person or proxy. Any person who occupies a Residential Dwelling on a Lot in the Subdivision but is not an Owner may attend meetings of the Association and serve on committees (other than the Architectural Review Committee after the election of the First Elected Board) and, if authorized by the Bylaws, serve on the Board of Directors of the Association. Fractional votes and split votes shall not be permitted. Cumulative voting shall not be permitted.

Class B membership in the Association shall cease and be converted to Class A membership at the conclusion of the meeting at which the First Elected Board is elected, as provided in Section 4.4 of this Declaration, or on any earlier date selected by Declarant and evidenced by a written notice recorded in the Official Public Records of Real Property of Galveston County, Texas.

SECTION 4.4. MEETINGS OF THE MEMBERS. The first meeting of the Members of the Association ("First Meeting") shall be held when called by the Appointed Board upon no less than ten (10) and no more than fifty (50) days' prior written notice to the Members. Such written notice may be given at any time but must be given not later than thirty (30) days after all of the Lots subject to this Declaration have been sold by Declarant as evidenced by a deed recorded in the Official Public Records of Real Property of Galveston County, Texas for each Lot. The First Elected Board shall be elected at the First Meeting of the Members of the Association. Thereafter, annual and special meetings of the Members of the Association shall be held at such place and time and on such dates as shall be specified or provided in the Bylaws.

SECTION 4.5. PROFESSIONAL MANAGEMENT. The Board shall have the authority to retain, hire, employ or contract with such professional management companies or

personnel as the Board deems appropriate to perform the day to day functions of the Association and to provide for the management, administration and operation of the Subdivision as provided for herein and as provided for in this Declaration in the Bylaws.

SECTION 4.6. BOARD ACTIONS IN GOOD FAITH. Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party.

SECTION 4.7. IMPLIED RIGHTS; BOARD AUTHORITY. The Association may exercise any right or privilege given to it expressly by the provisions of this Declaration or its Certificate of Formation or Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board of Directors without a vote of the membership except where any provision in this Declaration, the Certificate of Formation, the Bylaws or applicable law specifically requires a vote of the membership.

The Board may institute, defend, settle or intervene on behalf of the Association in litigation, administrative proceedings, binding or non-binding arbitration or mediation in matters pertaining to (a) Common Areas or other areas in which the Association has or assumes responsibility pursuant to the provisions of this Declaration, (b) enforcement of this Declaration or any Rules and Regulations or (c) any other civil claim or action. However, no provision in this Declaration or the Bylaws shall be construed to create any independent legal duty to institute litigation on behalf of or in the name of the Association.

SECTION 4.8. STANDARD OF CONDUCT. The Board of Directors, the officers of the Association, and the Association shall have the duty to represent the interests of the Owners in a fair and just manner. Any act or thing done by any Director, officer or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the Declaration, Bylaws and the laws of the State of Texas, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing shall not be a breach of duty on the part of the Director, officer or committee member if taken or done within the exercise of their discretion and judgment. The Business Judgment Rule means that a court shall not substitute its judgment for that of the Director, officer or committee member. A court shall not re-examine the decisions made by a Director, officer or committee member by determining the reasonableness of the decision as long as the decision is made in good faith and in what the Director, officer, or committee member believed to be in the best interest of the Association.

ARTICLE V

MAINTENANCE EXPENSE CHARGE AND MAINTENANCE FUND

SECTION 5.1. MAINTENANCE FUND. All Annual Maintenance Charges collected by the Association and all interest, penalties, assessments and other sums and revenues collected by the Association constitute the Maintenance Fund. The Maintenance Fund shall be held, managed, invested and expended by the Board, at its discretion, for the benefit of the Subdivision and the Owners of Lots therein. The Board shall by way of illustration and not by way of limitation, expend the Maintenance Fund for the administration, management, and operation of the Subdivision; for the maintenance, repair and improvement of the Common Area; maintenance and repair of street lighting; for the maintenance of any easements granted to the Association, for the

enforcement of the provisions of this Declaration by action at law or in equity, or otherwise, and the payment of court costs as well as reasonable and necessary legal fees; and for all other purposes that are, in the discretion of the Board, desirable in order to maintain the character and value of the Subdivision and the Lots therein. The Board and its individual members shall not be liable to any person as a result of actions taken by the Board with respect to the Maintenance Fund, except for willful neglect or intentional wrongdoings

SECTION 5.2. COVENANTS FOR ANNUAL MAINTENANCE CHARGES AND ASSESSMENTS. Subject to Article V, Section 5.7, below, each and every Lot in the Subdivision is hereby severally subjected to and impressed with an Annual Maintenance Charge or assessment in an amount to be determined annually by the Board, which Annual Maintenance Charge shall run with the land. Each Owner of a Lot, by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the Annual Maintenance Charges and assessments levied against his Lot and/or assessed against him by virtue of his ownership thereof, as the same shall become due and payable, without demand. The Annual Maintenance Charges and assessments herein provided for shall be a charge and a continuing lien upon each Lot, together with all Improvements thereon, as hereinafter more particularly stated. Each Annual Maintenance Charge or assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such Annual Maintenance Charge or assessment accrued, but no Member shall be personally liable for the payment of any Annual Maintenance Charge or assessment made or becoming due and payable after his ownership ceases. No Member shall be exempt or excused from paying any such Annual Maintenance Charge or assessment by waiver of the use or enjoyment of the Common Area, or any part thereof, or by abandonment of his Lot or his interest therein.

SECTION 5.3. BASIS AND MAXIMUM ANNUAL MAINTENANCE CHARGE. Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum Annual Maintenance Charge or assessment shall be \$2,400.00 per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum Annual Maintenance Charge or assessment may be automatically increased, effective January 1 of each year, by an amount equal to a ten percent (10%) increase over the prior year's maximum Annual Maintenance Charge or assessment without a vote of the Members of the Association. From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum Annual Maintenance Charge or assessment may be increased above ten percent (10%) only if approved in writing by a majority of the Members in Good Standing or by the vote of not less than two-thirds (2/3) of the Members in Good Standing present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the Annual Maintenance Charge or assessment at an amount not in excess of the maximum amount established pursuant to this Section. Except as provided in Section 5.7, the Annual Maintenance Charge or assessment levied against each Lot shall be uniform.

SECTION 5.4. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL MAINTENANCE CHARGE. The initial maximum Annual Maintenance Charge or assessment provided for herein shall be established as to all Lots on the date this Declaration is recorded in the Official Public Records of Real Property of Galveston County, Texas. However,

*\$1,500. Per Lot Due
in July*

the Annual Maintenance Charge or assessment shall commence as to each Lot on the date of the conveyance of the Lot by the Declarant and shall be prorated according to the number of days remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the Annual Maintenance Charge or assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the Annual Maintenance Charge or assessment shall be sent to every Owner. Provided that, the failure to fix the amount of an Annual Maintenance Charge or assessment or to send written notice thereof to all Owners shall not affect the authority of the Association to levy Annual Maintenance Charges or assessments or to increase Annual Maintenance Charges or assessments as provided in this Declaration.

SECTION 5.5. SPECIAL ASSESSMENTS. If the Board at any time, or from time to time, determines that the Annual Maintenance Charges assessed for any period are insufficient to provide for the continued operation of the Subdivision or any other purposes contemplated by this Declaration, then the Board shall have the authority to levy a special assessment ("Special Assessment") as it shall deem necessary to provide for such continued maintenance and operation of the Subdivision. No Special Assessment shall be effective until the same is approved in writing by at least a majority of the Members in Good Standing, or by the vote of not less than two-thirds (2/3) of the Members in Good Standing present and voting, in person or by proxy, at meeting of the Members called for that purpose at which a quorum is present. Any such Special Assessment shall be payable in the manner determined by the Board and the payment thereof shall be subject to interest, late charges, costs and attorney's fees, shall be secured by the continuing lien established in this Article, and may be enforced in the manner herein specified for the payment of the Annual Maintenance Charges.

SECTION 5.6. ENFORCEMENT OF ANNUAL MAINTENANCE CHARGE/ SUBORDINATION OF LIEN. The Annual Maintenance Charge assessed against each Lot shall be due and payable in equal monthly installments, on the first day of each month. Any Annual Maintenance Charge which is not paid and received by the Association by the fifteenth (15th) day of the month in which such installment becomes due shall be deemed to be delinquent, and, without notice, shall bear interest at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, from the date originally due until paid. Further, the Board of Directors of the Association shall have the authority to impose a monthly late charge on any delinquent portion of the Annual Maintenance Charge. The monthly late charge, if imposed, shall be in addition to interest. If three (3) or more monthly installments of the Annual Maintenance Charge become delinquent on a Lot, the Board of Directors shall have the right, upon written notice to the Owner, to accelerate payment of all monthly installments and demand full payment of the Annual Maintenance Charge for the year in question. To secure the payment of the Annual Maintenance Charge, Special Assessments and any other sums due hereunder (including, without limitation, interest, costs, late charges, attorney's fees), there is hereby created and fixed a separate and valid and subsisting lien upon and against each Lot and all improvements thereon for the benefit of the Association, and superior title to each Lot is hereby reserved in and to the Association. The lien described in this Section and the superior title herein reserved shall be deemed subordinate to a first lien Mortgage for the purchase of the Lot and any renewal, extension, rearrangements or refinancing of such purchase money Mortgage. The collection of such Annual Maintenance Charge and other sums due hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs and attorney's fees shall be chargeable to and be a personal obligation of the defaulting Owner. Notice of the lien

referred to in the preceding paragraph may, but shall not be required to, be given by recording in the Official Public Records of Real Property of Galveston County, Texas an affidavit, duly executed, and acknowledged by a duly authorized representative of the Association, setting forth the amount owned, the name of the Owner or Owners of the affected Lot according to the books and records of the Association, and the legal description of such Lot. Each Owner, by acceptance of a deed to his Lot, hereby expressly recognizes the existence of such lien as being prior to his ownership of such Lot and hereby vests in the Association the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid Annual Maintenance Charge and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure pursuant to Chapter 51 of the Texas Property Code (as same may be amended or revised from time to time hereafter) and in addition to and in connection therewith, by acceptance of the deed to his Lot, each Owner expressly grants, bargains, sells and conveys to the President of the Association from time to time serving, as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid Annual Maintenance Charge, Special Assessments, and other sums due hereunder remaining unpaid hereunder by such Owner from time to time and grants to such trustee a power of sale. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and filed in the Official Public Records of Real Property of Galveston County, Texas. In the event of the election by the Board to foreclose the lien herein provided for nonpayment of sums secured by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, to enforce the lien and to sell such Lot, and all rights appurtenant thereto, in accordance with the provisions of Chapter 51 of the Texas Property Code as same may hereafter be amended. At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer.

SECTION 5.7. PAYMENT OF ASSESSMENTS BY DECLARANT. Lots owned by Declarant are exempt from Annual Maintenance Charges and Special Assessments as long as Class B membership in the Association exists

SECTION 5.8. NOTICE OF SUMS OWING. Upon the written request of an Owner, the Association shall provide to such Owner a written statement setting out the then current total of all Annual Maintenance Charges, Special Assessments, and other sums, if any, owing by such Owner with respect to his Lot. In addition to such Owner, the written statement from the Association so advising the Owner may also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, as same may be identified by said Owner to the Association in the written request for such information. The Association shall be entitled to charge the Owner a reasonable fee for such statement

SECTION 5.9. FORECLOSURE OF MORTGAGE. In the event of a foreclosure of a Mortgage on a Lot that is superior to the continuing lien created for the benefit of the Association pursuant to this Article, the purchaser at the foreclosure sale shall not be responsible for Annual Maintenance Charges, Special Assessments, or other sums, if any, which accrued and were

payable to the Association by the prior Owner of the Lot, but said purchaser and its successors shall be responsible for Annual Maintenance Charges, Special Assessments, and other sums, if any, becoming due and owing to the Association with respect to said Lot after the date of foreclosure.

SECTION 5.10. TRANSFER FEES/RESALE CERTIFICATES. The Board of Directors of the Association shall establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing information in connection with the sale of a Lot in the Subdivision and changing the ownership records of the Association ("Transfer Fee"). A Transfer Fee shall be paid to the Association or the managing agent of the Association, if agreed to by the Association, upon each transfer of title to a Lot. The Transfer Fee shall be paid by the purchaser of the Lot, unless otherwise agreed by the seller and purchaser of the Lot. The Association shall also have the authority to establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing a Resale Certificate in connection with the sale of a Lot. The fee for a Resale Certificate shall be paid to the Association or the managing agent of the Association, if agreed to by the Association. The fee for a Resale Certificate shall be in addition to, not in lieu of, the Transfer Fee.

ARTICLE VI

INSURANCE; SECURITY

SECTION 6.1. GENERAL PROVISIONS. The Board shall have the authority to determine whether or not to obtain insurance for the Association and, if insurance is obtained, the amounts thereof. In the event that insurance is obtained, the premiums for such insurance shall be an expense of the Association which shall be paid out of the Maintenance Fund. Provided that, the Board of Directors shall, at all times, maintain the following types of insurance:

- (a) property insurance on the Common Area in an amount equal to the maximum insurable replacement value and affording protection against loss or damage by fire or other hazards covered by standard extended coverage policies, including debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage, all to the extent reasonably available,
- (b) comprehensive public liability insurance covering all claims for personal injury and/or property damage,
- (c) liability insurance insuring the officers, directors and committee members of the Association against any claims, losses, liabilities, damages or causes of action arising out of, or in connection with or resulting from, any act or omission in their respective capacities

SECTION 6.2. INDIVIDUAL INSURANCE. Each Owner, tenant or other person occupying a Residential Dwelling shall be responsible for insuring his Lot and his Residential Dwelling, its contents and furnishings. Each Owner, tenant or other person occupying a Residential Dwelling shall, at his own cost and expense, be responsible for insuring against the liability of such Owner, tenant or occupant

SECTION 6.3. INDEMNITY OF ASSOCIATION. Each Owner shall be responsible for any costs incurred as a result of such Owner's negligence or misuse or the negligence or misuse of his family, tenants, guests, invitees, agents, employees, or any resident or occupant of his Residential Dwelling, and by acceptance of a deed to a Lot does hereby indemnify the Association, its officers, directors and agents, and all other Owners against any such costs

SECTION 6.4. SECURITY. THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS AND ATTORNEYS, ("ASSOCIATION AND RELATED PARTIES") SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. THE ASSOCIATION AND RELATED PARTIES SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. OWNERS, LESSEE AND OCCUPANTS OF ALL LOTS, ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES, OR OTHER SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. OWNERS, LESSEES, AND OCCUPANTS OF LOTS ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION AND RELATED PARTIES ARE NOT AN INSURER AND THAT EACH OWNER, LESSEE AND OCCUPANT OF ANY LOT AND ON BEHALF OF THEMSELVES AND THEIR GUESTS AND INVITEES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENTIAL DWELLINGS AND TO THE CONTENTS OF THEIR RESIDENTIAL DWELLING AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR LESSEE ON BEHALF OF THEMSELVES AND THEIR GUESTS OR INVITEES RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

ARTICLE VII

FIRE OR CASUALTY: REBUILDING

SECTION 7.1. REBUILDING. In the event of a fire or other casualty causing damage or destruction to the Residential Dwelling on a Lot, the Owner of such damaged or destroyed Residential Dwelling shall, within ninety (90) days after such fire or casualty (or such longer period if approved in writing by the Board of Directors), contract to repair or reconstruct the damaged portion of Residential Dwelling and shall cause the Residential Dwelling to be fully repaired or reconstructed in accordance with the original Plans therefor, or in accordance with new Plans presented to and approved by the Architectural Review Committee, and shall promptly commence repairing or reconstructing such Residential Dwelling, to the end that the Residential Dwelling shall not remain in a partly finished condition any longer than reasonably

necessary for completion thereof. Alternatively, such damaged or destroyed Residential Dwelling shall be razed and the Lot restored as nearly as possible to its original condition within ninety (90) days of its damage or destruction (or such longer period if approved in writing by the Board of Directors). In the event that the repair and reconstruction of the Residential Dwelling has not been commenced within ninety (90) days after such fire or casualty (or such longer period if approved in writing by the Board of Directors), and the damaged or destroyed Residential Dwelling has not been razed and the Lot restored to its original condition, the Association and/or any contractor engaged by the Association, shall upon thirty (30) days written notice to the Owner at the Owner's last known mailing address according to the records of the Association, have the authority but not the obligation to enter upon the Lot, raze the Residential Dwelling and restore the Lot as nearly as possible to its original condition. Any costs incurred by the Association to raze the Residential Dwelling and to restore the Lot to its original condition, plus fifty percent (50%) of such costs for overhead and supervision, shall be charged to the Owner's assessment account, secured by the lien created in Article V of this Declaration and collected in the manner provided in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

ARTICLE VIII **AMENDMENT, DURATION AND MERGER**

SECTION 8.1. AMENDMENT. For a period of five (5) years after the date this Declaration is recorded, Declarant shall have the authority to amend this Declaration, without the joinder or consent of any other party, so long as an amendment does not adversely affect any substantive rights of the Lot Owners. After the expiration of the five (5) year period, Declarant shall have the right to amend this Declaration, without the joinder or consent of any other party, for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors, or omissions; provided, however, any such amendment shall be consistent with and in furtherance of the general plan and scheme of development for the Subdivision. In addition, the provisions of this Declaration may be amended at any time by an instrument in writing signed by the Secretary of the Association certifying that Owners representing not less than two-thirds (2/3) of the Lots have approved such amendment, in writing, setting forth the amendments, and duly recorded in the Official Public Records of Real Property of Galveston County, Texas, provided that, until the First Meeting of the Members of the Association, as provided in Section 4.4 of this Declaration, an amendment of this Declaration must also be approved in writing by Declarant. Provided further that, without the joinder of Declarant, no amendment may diminish the rights of or increase the liability of Declarant under this Declaration. In the event that there are multiple Owners of a Lot, the written approval of an amendment to this Declaration may be reflected by the signature of a single Co-Owner. Any legal challenge to the validity of an amendment to this Declaration must be initiated by filing a suit not later than one (1) year after the date the amendment document is recorded in the Official Public Records of Real Property of Galveston County, Texas.

SECTION 8.2. DURATION. The provisions of this Declaration shall remain in full force and effect until January 1, 2030, and shall be extended automatically for successive ten (10) year periods, provided however, that the provisions of this Declaration may be terminated on January 1, 2030, or on the commencement of any successive ten (10) year period by filing for record in the

Official Public Records of Real Property of Galveston County, Texas, an instrument in writing signed by Owners representing not less than seventy-five percent (75%) of the Lots in the Subdivision

SECTION 8.3. MERGER. Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the merging or consolidating associations as one scheme. No such merger or consolidation shall effect any revocation, change or addition to the provisions of this Declaration

ARTICLE IX **MISCELLANEOUS**

SECTION 9.1. SEVERABILITY. In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect

SECTION 9.2. NUMBER AND GENDER. Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

SECTION 9.3. ARTICLES AND SECTIONS. Article and section headings in this Declaration are for convenience of reference and shall not affect the construction or interpretation of this Declaration. Unless the context otherwise requires references herein to articles and sections are to articles and sections of this Declaration

SECTION 9.4. DELAY IN ENFORCEMENT. No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time

SECTION 9.5. ENFORCEABILITY. The provisions of this Declaration shall run with the Property and shall be binding upon and inure to the benefit of and be enforceable by Declarant, the Association, each Owner and occupant of a Lot in the Subdivision, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. If notice and an opportunity to be heard are given, the Association shall be entitled to impose reasonable fines for violations of the provisions of this Declaration or the Rules and Regulations and to collect reimbursement of actual attorney's fees and other reasonable costs incurred by it relating to violations of the provisions of this Declaration or the Rules and Regulations. Such fines, fees and costs may be added to the Owner's assessment account and collected in the manner provided in Article V of this Declaration.

SECTION 9.7. REMEDIES. In the event any one or more persons, firms, corporations or other entities shall violate or attempt to violate any of the provisions of this Declaration, Declarant, the Association, each Owner or occupant of a Lot within the Subdivision, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such

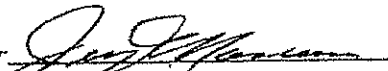
violation or attempted violation or to recover monetary damages caused by such violation or attempted violation.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, and the owner of one or more Lots, have executed this Declaration on this the date(s) set forth below, to become effective upon recording in the Official Public Records of Real Property of Galveston County, Texas

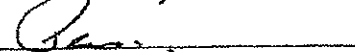
MANCUSO CHAIR GROUP, INC.

d/b/a New Heights Ventures

a Texas corporation

By: 

Print Name: Jerry Mancuso

Its: 


Joyce Martel

THE STATE OF TEXAS

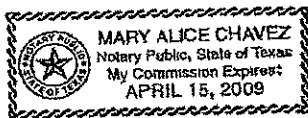
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COUNTY OF GALVESTON

§

BEFORE ME, the undersigned Notary Public, on this day personally appeared Terry Mancuso, PRESIDENT, of Mancuso Chair Group, Inc., a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 23 day of MAY, 2007.



Mary Alice Chavez
Notary Public in and for the State of Texas

THE STATE OF TEXAS

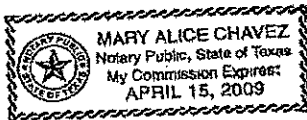
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COUNTY OF GALVESTON

§

BEFORE ME, the undersigned Notary Public, on this day personally appeared Joyce Martel, _____, of _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes therein expressed

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 23 day of MAY, 2007.



Mary Alice Chavez
Notary Public in and for the State of Texas

B.C. Swenson
115921_1 3890 E
North Freeway
Houston, Texas 77022

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FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Mary Ann Daigle

2007035272

May 31, 2007 02 20 20 PM

FEE \$124.00

Mary Ann Daigle, County Clerk
Galveston County, TEXAS

**AMENDED BYLAWS OF THE
OLD GALVESTON VILLAS COMMUNITY ASSOCIATION, INC.**

ARTICLE I.

NAME AND LOCATION

The name of the corporation is the OLD GALVESTON VILLAS COMMUNITY ASSOCIATION, INC., hereinafter referred to as the "Association." The principal office of the Association shall be located at 1026 Lillian Lane, Galveston, Texas 77554 and the mailing address of the Association shall be P.O. Box 573087, Houston, TX 77257-3087, but meetings of the Members and directors may be held at such places within the State of Texas, as may be designated by the Association's Board of Directors.

ARTICLE II.

DEFINITIONS

Section 1. "Association" shall mean and refer to OLD GALVESTON VILLAS COMMUNITY ASSOCIATION, INC., its successors and assigns. The Association is comprised of ten (10) Members who are the Owners of Lots. Each Owner of a Lot owns a 10% undivided interest in the Association.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions filed of record in the real property records of Galveston County, Texas as Old Galveston Villas Subdivision, Section 1, and any additional sections of Old Galveston Villas Subdivision as may hereinafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners including any reserves conveyed to the Association by the Developer.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Properties with the exception of Common Areas and commercial reserves, if any, which may be excluded from the scope of the Declaration of Covenants, Conditions and Restrictions.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties.

Section 6. "Developer" shall mean and refer to Mancuso Chair Group, Inc., its successors and assigns if such successors and assigns should acquire undeveloped real property

from the Developer for the purpose of developing the property as a portion of Old Galveston Villas subdivision and/or development.

Section 7. "Member" shall mean a person(s) or entity this is the Owner of a Lot. There shall be only one Member per Lot. Members owning more than one Lot will have a Membership interest equal to the number of Lots owned by such Member.

Section 8. "Restrictions" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to Old Galveston Villas, Section One, recorded in the Official Public Records of Real Property of Galveston County, Texas, and any amendments thereafter or such other restrictions created by additional properties annexed to the Properties.

ARTICLE III.

MEETING OF MEMBERS

Section 1. Annual Meeting. An annual Association meeting of the Members for 2011 shall be held on or before March 31, 2011. An annual meeting of the Members for the purpose of Association business and affairs shall be held each year thereafter on or before the 31st day of March of each year.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President of the Association or by the Board of Directors of the Association, or upon written request of sixty percent (60%) the Members.

Section 3. Notice of Meetings. Written notice is required for the annual Association meeting of the Members. Written notice of each annual, or special meeting of the Members shall be given by the Secretary of the Association or by the Person by the Board of Directors authorized to give notice of the meeting. Notice shall be mailed, postage prepaid, and/or hand delivered to each Member's Lot, at least fifteen (15) days before such meeting to each Member entitled to vote. Notice shall be addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, date, hour and purpose of the meeting.

Section 4. Quorum. The presence at any meeting of the Members entitled to cast, or of proxies entitled to cast, votes on behalf of 60% of the Members constitute a quorum for any action, except as otherwise provided by these Bylaws. If, however, a quorum shall not be present or represented at any meeting, the Members entitled to vote therein shall have power to adjourn the meeting from time to time without notice of other than an announcement at the meeting until a quorum shall be present or represented.

Section 5. Proxies. At all meetings, each Member may vote in person or by proxy, or by telephonic means or by email to the Association. Any telephonic vote by a Member must be confirmed thereafter by a written communication to the Association which may be by email. All proxies shall be in writing and filed with the Secretary of the Association or may be delivered in person by a representative of a Member at a meeting of the Members. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

ARTICLE IV.

BOARD OF DIRECTORS: SELECTION AND TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a board of three (3) directors who do not have to be a Member of the Association.

Section 2. Term of Office. The initial board of three (3) directors shall be selected by the Developer and shall serve until the election of a new board of directors to be held on or before April 8, 2011. At the first meeting of the Members to be held on or before April 8, 2011 the Members shall elect three (3) directors for terms of two (2) years each. At the annual meeting every two years thereafter, the Members shall elect three (3) directors for terms of two (2) years each.

Section 3. Removal. Any director selected by the Members of the Association may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation, or removal of a director, his or her successor shall be selected by the remaining Members of the Board of Directors and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. No business owned or partially owned or indirectly owned or controlled by a director shall receive compensation from the Association.

Section 5. Action Taken Without Meeting. In the absence of a meeting, by obtaining the written approval, and consent (including by email) of all the directors, the directors shall have the right to take any action which they could take at a meeting. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V.

NOMINATION AND ELECTION OF
DIRECTORS BY MEMBERS OF THE ASSOCIATION

Section 1. Nomination. Nomination for election to the Board of Directors by the Members of the Association shall be made by any Member at the annual meeting of Members scheduled to be held on or before April 8, 2011.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot or by open voting if the Members give unanimous consent to open voting. At such election the Members or their proxies may cast one vote per Lot Owner. There should be three elections with one director candidate(s) to be voted on separately by each Member entitled to vote. The persons receiving the largest number of votes shall be elected. A Member shall not be entitled to vote on any Association matter if such Lot Owner is delinquent by more than thirty days (30 days) in the payment of any regular or special assessment.

ARTICLE VI.

MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at the discretion of the chairman of the Board of Directors with no less than one meeting per calendar month quarter of each year with reasonable prior written notice to other directors although directors may waive the requirement of written notice. Meetings may be held by telephonic and/email means.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by the other two (2) Directors, after not less than three (3) days actual notice to each director. Special meetings may be held by telephonic and/or email.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

ARTICLE VII.

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have the power to:

- (a) Adopt and publish reasonable rules and regulations governing use of Common Area and facilities, if any, and the personal conduct of the Members and their guests thereon, and to establish penalties for infractions thereof;
- (b) Suspend the right to use of Common Area recreational facilities, if any, by Members during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may only be suspended after notice and hearing, for a period not to exceed sixty (60) days for the infractions of published rules and regulations;
- (c) Exercise for the Association all powers, duties, authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these Bylaws or the Articles of Incorporation, or the Declaration of Covenant, Conditions and Restrictions; provided, however, no special assessments may be made prior to December 31, 2011.
- (d) Declare the office of a member of the Board of Directors to be vacant in the event each such director shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

- (e) Assess a transfer fee of \$100.00 for any change in Membership interest.
- (f) Employ manager(s), accountant(s), bookkeeper(s), attorney(s) and independent contractor(s), or such other employees as they deem necessary, and to prescribe their duties.
- (g) Further amend these bylaws although no such amendment may be made prior to December 31, 2011 without the unanimous consent of all Members.

Section 2. Duties.

It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- (b) Supervise all officers, agents and employees of the Association and to see that their duties are properly performed;
- (c) As more fully provided in the Declarations of Covenants, Conditions and Restrictions, to: 1. Fix the amount of the annual assessment against such Lot at least thirty (30) days in advance of each annual assessment period; 2. Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and 3. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay the same, if in the judgment of the Association it is necessary provided, however, the Association shall not take any enforcement action in courts or otherwise, including, without limitation, the recording of affidavits claiming liens and/or actions to foreclose liens, unless the same enforcement action is taken against all other Members that are non-compliant for the same reasons or violations;
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors before the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) To procure and maintain adequate liability and hazard insurance on the property owned by the Association;
- (f) To cause all officers or employees having fiscal responsibilities to be bonded, as the Board of Directors may deem appropriate; and

- (g) To cause the Common Area, if any, to be maintained.
- (h) To record in the real property records of Galveston County, Texas releases of all affidavits claiming liens by the Association recorded prior to the enactment of these amended bylaws and thereafter to record affidavits claiming liens, enforce such liens, and recorded release of any affidavits claiming liens as provided in the Declaration and the amended bylaws, including any subsequent amendments to either or both the Declaration of the amended bylaws;
- (i) To resolve that all general or regular assessments prior to December 31, 2011 are waived as to any and all signatories to these Amended Bylaws and that the next regular assessment should be due and payable to the Association by January 31, 2012 and by January 31 of each successive year; provided, however, Joyce Martel shall be entitled to a credit against regular and/or special assessments in a aggregate amount of \$8100.00 until such credit is exhausted.

ARTICLE VIII.

OFFICERS AND THEIR DUTIES

Section 1. Corporate Offices. The officers of the Association shall be a President, a Secretary, a Treasurer, and such other offices that the Board of Directors, from time to time, by resolution may create. The officers shall receive no compensation.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following the meeting of the Members to be held on or before April 8, 2011.

Section 3. Term. The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for two (2) years unless he/she shall sooner resign, be removed or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Directors, from time to time, may determine.

Section 5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board of Directors. Any officers may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of said notice or at any later time specified therein, and unless

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otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article.

President

- (a) The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all promissory notes of the Association.

Secretary

- (b) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members, keep the corporate seal of the Association and affix it upon the minutes of the meetings of the Board of Directors and Members and upon all other papers requiring said seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate records showing the Members of the Association together with their addresses; and perform such other duties as required by the Board of Directors.

Treasurer

- (c) The Treasurer shall receive and deposit or cause to be received and deposited in appropriate bank accounts, all monies of the Association and shall disburse or direct the disbursement of such funds as directed by the Board of Directors; shall co-sign all promissory notes of the Association; keep proper books of account, cause a report of the Association's books to be made at the completion of each fiscal year, and prepare an annual budget and a statement of income and expenditures to be presented at its regular annual meeting. Copies of these documents shall be available for purchase at a reasonable cost.

ARTICLE IX.

COMMITTEES

The Association shall appoint all committees as provided in the Declaration(s) of Covenants, Conditions and Restrictions. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X.

BOOKS AND RECORDS

The books, records and papers of the Association, shall at all times, during reasonable business hours, be subject to inspection by any Member. The Articles of Incorporation, the Bylaws of the Association and the Restrictions shall be available for inspection by any Member at the principal office of the Association where copies may be purchased at a reasonable cost.

ARTICLE XI.

REMEDIES FOR NON-PAYMENT OF ASSESSMENT

As more fully provided in the Restrictions, each Member is obligated to pay to the Association annual and may be obligated to pay special assessments which are secured by a continuing lien upon all property against which the assessment is made. Any assessments which are not paid when due shall be considered delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against any Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Provided however no Member shall be liable for any regular assessment until January 31, 2012. Thereafter 2012, regular assessments shall be due and payable annually by January 31 of each year. The directors hereby stipulate that no special assessment may be imposed prior to December 31, 2011 and, thereafter, no special assessment may be imposed except by a vote of the Members who collectively own seventy-five percent (75%) of the Lots. Members shall be given written notice of any meeting to vote on a special assessment called by the board of directors in accordance with Article III, Section 3 above. No special assessment shall be voted upon by the Members for repair, maintenance, or revocation of the Properties or Common Area unless the board of directors obtains three competitive bids for any expenditure to be funded by a special assessment and such bids shall be mailed or delivered to the Members at or before the meeting to vote upon any special assessment approved by the board of directors.

ARTICLE XII.

AMENDMENTS

Section 1. These Bylaws may not be amended prior to December 31, 2011 except by unanimous consent of the Members. Thereafter, these Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these amended Bylaws, the amended Bylaws shall control; and in the case of any conflict between the Restrictions and the amended Bylaws, the amended Bylaws shall control.

Section 3. Any previously executed Bylaws of the Association, including those dated April 15, 2010 are hereby revoked and deemed null and void. However, the present board hereby ratifies and affirms everything done by Jerry Mancuso and Joyce Martel in the name of the Association except for anything either did or failed to do that is inconsistent with or conflicts with these amended Bylaws.

ARTICLE XII.

FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Directors of OLD GALVESTON VILLAS COMMUNITY ASSOCIATION, INC. have hereunto set our hand this 8th day of April, 2011.

The Board of Directors of the Association:

By: Joyce S. Martel

Printed Name: Joyce S. Martel

By: Jerry Mancuso

Printed Name: Jerry Mancuso

By: Kim Hanel

Printed Name: KIM HANEL

THE STATE OF TEXAS §
§
COUNTY OF GALVESTON §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, do hereby certify that on this day personally appeared Soyce S. Martel who being by me duly sworn, declared that he is the person who signed the foregoing document.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 8 day of April, 2011.

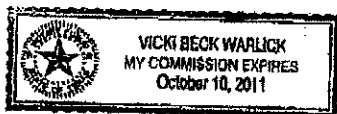


Vicki Beck Warlick
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF GALVESTON §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, do hereby certify that on this day personally appeared Terry Mancuso who being by me duly sworn, declared that he is the person who signed the foregoing document.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 8 day of April, 2011.

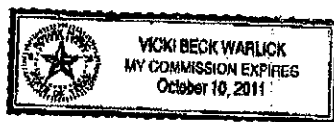


Vicki Beck Warlick
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF GALVESTON §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, do hereby certify that on this day personally appeared Kim Hamel who being by me duly sworn, declared that he is the person who signed the foregoing document.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 8 day of April, 2011.



Vicki Beck Warlick
Notary Public, State of Texas

Members:

FH Properties, LP

By: [Signature]

Printed Name: KELLEY COKER

Its: authorized agent

Aurora Loan Services, LLC

By: _____

Printed Name: _____

Its: authorized agent

Prosperity Bank

By: _____

Printed Name: _____

Its: authorized agent

OLD GALVESTON VILLAS COMMUNITY ASSOC., INC.
Amended H.O.A. Rental Rules as of July 19, 2014

PROPERTY RENTAL:

1. No property in subdivision can be rented or leased for a period of less than six (6) months. No exceptions.
2. The maximum amount of persons residing at a property shall be no more than two and one-half times the amount of people per bedroom (i.e., a three bedroom house should not have more than five (5) persons per bedroom. Therefore, a three bedroom house should have no more than fifteen (15) people (plus a housekeeper).
3. No more than four (4) automobiles at any time per property.
4. All automobiles are to be parked on the property's driveway (not on the street).
5. All renters must maintain the cleanliness of the grounds in and around the pool.

CHRIS GANYARD (1 house)
8407 Teichman, Lot #1

JOYCE MARTEL (2 houses)
1026 Lillian Ln., Lot #8
1022 Lillian Ln., Lot #7

PENNY McCUTCHEN (1 house)
1007 Lillian Ln., Lot #10

GEORGE SHANNON (1 house)
1006 Lillian Ln., Lot #3

TRAC D. HOANG(1 house)
1018 Lillian Ln., Lot #6