

STEWART TITLE HOUSTON DIVISION

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DECLARATION

503-99-1478

OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

WEST PLACE

49
THE STATE OF TEXAS §

§
COUNTY OF HARRIS §

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THIS DECLARATION, made on the date hereinafter set forth by **PWF 3, Inc.**, hereinafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the Owner of certain property in County of Harris, State of Texas, which is particularly described as:

WEST PLACE, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded under County Clerk's File Number R048357 in the Map Records of Harris County, Texas. *1u*

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

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Section 1. "Association" shall mean and refer to West Place Green Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, save and except Reserve "A", and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be conveyed to the Association free of all encumbrances, at or prior to the time of the conveyance of the first Lot is described as follows:

A 2.2717 acre tract (98,956 square feet) of land designated as Reserve "A", being out of West Place, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded under County Clerk's File Number R048357 in the Map Records of Harris County, Texas.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area, if any. For the purposes of this Declaration, "developed Lot" shall mean a Lot with the street on which it faces opened and improved and with utilities installed and ready to furnish utility service to such Lot, "undeveloped Lot" shall mean any Lot which is not a developed Lot, and an "improved Lot" shall mean any Lot on which a residence has been constructed.

Section 6. "Declarant" shall mean and refer to PWF 3, Inc., its successors, and assigns if such successors or assigns should acquire from the Declarant a majority of the Lots then owned by Declarant.

Section 7. "Builder" shall mean and refer to the record owner, whether a person or entity, of a fee simple title to any Lot which is a part of the Properties, who constructs a residence thereon and who offers the improved Lot for resale to the public.

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ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner (i) for any period during which any assessment against his Lot remains unpaid, and (ii) for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.
- (c) The right of the Association to limit the number of guests of Owners using any portion of the Common Area and any facilities located thereon; and
- (d) The right of the Association, in accordance with its Articles of Incorporation or By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property. The rights of any such mortgagee in said properties shall be subordinate to the provisions of this Declaration. The Common Area cannot be mortgaged or conveyed without the approval of at least two-thirds (2/3) of each class of members.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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Section 2. The Association shall have two classes of voting membership:

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on January 1, 1999.

Provided, however, that the Class B membership shall be reinstated upon annexation to the properties of any additional residential property and/or Common Area, but subject to further cessation in accordance with the limitations set forth in the preceding paragraphs (a) and (b) of this Article, whichever occurs first; however, upon reinstatement due to Annexation of additional property, the date in Article III, Section 2(b) above and shall be extended to January 1, 2002.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or charge is made, which lien shall be enforceable as herein provided. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents and property

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in the Properties, for the improvement and maintenance of the Common Area, and for the improvement and maintenance of the medians, esplanades in the streets in the subdivision and the detention ponds servicing the subdivision.

Section 3. Maximum Annual Assessment. The first annual assessment shall be due and payable on January 1, 1996, based on an annual budget adopted by the Board of Directors of the Association; provided however, the maximum assessment for the year 1996 shall not exceed One Hundred Fifty and no/100 (\$150.00) per Lot.

- (a) From and after January 1, 1996 the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum annual assessment for the previous year without a vote of the membership, or the maximum annual assessment may be adjusted in conformance with the Consumer Price Index (CPI), published by the U.S. Department of Labor, whichever is greater. Specifically, the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, is the Index to be utilized in the event that the CPI rate is used, all items unadjusted for seasonal variation. The CPI adjustment to the maximum assessment for any year shall be the amount determined by (a) taking the dollar amount specified above in the first sentence of this Section, (b) multiplying that amount by the published CPI number for the fourth month prior to the beginning of the subject year, and (c) dividing that resultant by the published CPI number for the fourth month prior to the month in which this declaration was signed by the Declarant.
- (b) In the event that the aforementioned Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average is not published by the U.S. Department of Labor, the maximum annual assessment shall be adjusted by the use of any similar applicable index currently published by the United States Government. If no similar applicable index is published, then the maximum annual assessment shall be increased by an amount not more than ten percent (10%) above the maximum annual assessment for the previous year without a vote of the membership.
- (c) From and after January 1, 1996, the maximum annual assessment amount specified above in the first sentence of this Section and used in the above CPI adjustment formula may be changed by a vote of the members, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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- (d) In addition to the adjustment for the CPI or its equivalent, as provided in Paragraphs (a) and (b) of this Section 3, from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment shall include an adjustment equal to the increased cost of any public utilities' charges to the Association, including but not limited to, street lighting, lighting for recreational areas, and heating and air conditioning of any improvements to the Common Area. The adjustment to the maximum assessment for each year shall include an amount equal to the number of chargeable units of service used by the Association during the year immediately preceding the adjustment, multiplied by the amount of increase, if any, in the rate charged per unit as of the effective date of the adjustment over the rate charged during the year ending December 31 following the conveyance of the first Lot to an Owner. The adjustment to the maximum assessment shall include the rates charged by all public utilities serving the Association.
- (e) The Board of Directors may fix the annual assessment, as of January 1 of each year immediately following the year in which the first Lot is conveyed to an Owner, at an amount not in excess of the maximum which shall include all adjustments for increases in the CPI, as provided in Paragraphs (a) and (b) of this Section 3, and all adjustment for increases in utility rates, as provided in Paragraph (d) of this Section 3. The Board of Directors may charge and collect a fraction of the annual assessment on each Lot until the conveyance of said Lot to an Owner, provided that, any such fractional charge to Declarant or a Builder shall not be more than fifty percent (50%) of the charge to Owners of improved Lots.
- (f) The Board of Directors, by virtue of this Declaration and the powers granted in the Articles of Incorporation and the By-laws of the Association, shall have the authority at its discretion to enter into security service agreements and trash and garbage disposal contracts with contractors to serve the needs of the Owners, and to assess each Owner a pro rata amount of the cost of such security and/or trash and garbage disposal services in addition to the annual assessment which amount, if any, is to be determined independently of and in addition to the maximum annual assessment. To secure the payment of such charges in the event of nonpayment by the Owner, it is hereby expressly stipulated that any such charges shall be added to the assessment to which the Lot is subject, secured by the continuing lien in favor of the Association, but inferior to purchase money lien or mortgage, and shall be enforceable in the same manner as the assessment lien.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such

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assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate as follows:

- (1) Owners as defined herein shall pay one hundred percent (100%) for both annual and special assessments;
- (2) The Declarant and its successors or assigns and Builders, as defined herein, shall pay fifty percent (50%) of both annual and special assessments attributable to their Lots.

Section 7. Date of Commencements of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of January, 1996. Thereafter, annual assessments shall be fixed as of January 1 for each succeeding calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum or the maximum non-usurious interest rate as then may be permitted under the applicable law in the State of Texas. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot, and interest, costs of collection, and reasonable attorney's fees for any such action shall be added to the amount of such assessment. Each Owner, by his acceptance of title to a Lot, hereby expressly vests in the West Place Green Homeowners Association, Inc. or its agents, the right and power to bring all actions

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against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure of the defaulting Owner's Lot. The foreclosure of the lien may be instituted in the name of the Association, at the exclusive election of the Board, either judicially or non-judicially. Any non-judicial foreclosure sale shall be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as herein set forth. The Declarant does hereby and each Owner, by accepting title to a Lot in West Place, expressly grant to the Association, and its Trustee, R. Charles Stiles, hereinafter referred to as "Trustee" and each successor trustee, as hereinafter provided, a power of sale in connection with the continuing lien created and imposed by this Article IV. The lien provided for in this Article IV shall be in favor of the Association acting on behalf of the Lot Owners and the Association shall have the power to bid at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

Section 9. Trustee's Sale. It shall, at any time thereafter while any part of said assessment, interest, costs or attorneys fees remains unpaid, be the duty of the Trustee, or the Trustee's successor as hereinafter provided, at the request of the Association to enforce this trust, exercise the power of sale herein granted and to sell the Lot(s) of any Owner(s) who have failed to pay to the Association any sum secured by the continuing lien imposed and created by this Article IV, as provided in this Declaration or by any other method now or hereafter provided by law for foreclosing the liens imposed by this Declaration, including without limitation, all rights and remedies provided under Section 51.002 of the Texas Property Code or any amendment or recodification of the same or any successor law or statute, whether state or federal, which supersedes or replaces all or any part of the laws of the State of Texas relating to or governing the foreclosure of liens under a deed of trust, as follows:

- (a) Unless otherwise provided by law, the Trustee shall sell the Lot(s) covered by the continuing lien at the place designated by the Commissioners Court for holding trustee's sales in the County Courthouse in Harris County, Texas each such sale to be made on the first Tuesday of a designated month between the hours of 10 o'clock a.m. and 4 o'clock p.m. and the sale shall be held within three (3) hours following the earliest time stated in the notice of sale.
- (b) After advertising, mailing and filing notices as required by the Texas Property Code, as then amended, and otherwise complying with all applicable laws, the Lot covered by the continuing lien shall be sold by the Trustee to the highest bidder or bidders for cash at public auction. No Notice of such sale or sales other than that herein provided need be given to the Owner(s) of the Lot(s) being sold or any other persons and any other notice is expressly waived.
- (c) The Trustee shall make due conveyance to the purchaser or purchasers, with general warranty on behalf of the Owner(s) of the Lot(s) so sold, and the title to such purchaser or purchasers when so made by Trustee, the said Owner(s) hereby bind themselves, their heirs, executors and administrators to warrant and forever defend.

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- (d) The Association may purchase at any such sale. A credit upon all or any part of the assessments and other charges owed shall be deemed cash paid for the purpose of this paragraph.
- (f) With the proceeds arising from such sale or sales, the Trustee shall first pay all expenses of advertising, sale and conveyance, including a commission of 5% of the gross proceeds of such sale or sales to the Trustee acting, and shall next apply such proceeds toward the payment of the assessments, interest, costs and attorney's fees, and the remaining balance if any, shall be paid to the Owner(s) of the Lot sold, their heirs and assigns.
- (g) The right and power of sale hereunder shall not be exhausted by one or any sale, but so long as any of said indebtedness remains unpaid, the Trustee or Substitute Trustee may make other and successive sales.

Section 10. Substitution of Trustee. In the case of the absence of the Trustee from the State, or of the Trustee's death, inability, refusal or failure to act, or in the event the Association should elect at any time (with or without cause) to remove the Trustee then acting, a successor and substitute may be named, constituted and appointed by the Association without further formality than an appointment and designation in writing, which appointment and designation shall be full evidence of the right and authority to make the same and all of all the facts therein recited, and this conveyance shall vest in the Successor or Substitute Trustee, the title powers and duties conferred on the Trustee named herein and the conveyance by the Successor or Substitute Trustee to the purchaser shall be equally valid and effective. Such right to appoint a Successor or Substitute Trustee shall exist as often as the Association may elect and whenever the Trustee, original or substitute, cannot or will not act or has been removed.

Section 11. Validity of Acts. The Declarant does hereby and each Owner, by accepting title to a Lot in West Place, specifically covenant and stipulate that the recitals in the conveyance made to the purchaser, either by the Trustee or any Successor or Substitute Trustee, shall be full proof and evidence of the matters therein stated, that no other proof shall be requisite of the request by the holder of said indebtedness on the Trustee to enforce this trust, or of the advertisement or sale, or any particulars thereof, or of the inability, refusal or failure of the Trustee, or Substitute Trustee to act, or of the removal of the Trustee, or the appointment of a Substitute Trustee, as herein provided either as to the legality of his appointment or otherwise, or of the contingencies which brought about the failure or inability of the Trustee to act, or of the Trustee's removal, as the case may be, that all prerequisites of said sale shall be presumed to have been performed, and that the sale made under the powers herein granted shall be a perpetual bar against the Owner(s) of the Lot(s) sold, their heirs, and assigns.

Section 12. Possession of Foreclosed Lot. The Declarant does hereby and each Owner, by accepting title to a Lot in West Place, specifically agree that after any sale under this Deed of Trust they or their heirs or assigns shall be mere tenants at sufferance of the purchaser of said property at said sale, and that such purchaser shall be entitled to immediate possession thereof, and

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that if the Owner(s) of the Lot(s) sold fail to vacate the premises immediately, such purchaser may and shall have the right to go into any justice court having venue or in any other court hereafter having jurisdiction of forcible detainer or eviction actions and file an action for possession of the Lot(s) sold, which action shall lie against Owner(s) thereof or their heirs or assigns or any persons claiming under said Owner(s) as tenants at sufferance. This remedy is cumulative of any and all remedies the purchaser may have hereunder or otherwise.

Section 13. No Election. The filing of a suit to collect any sums due hereunder or to foreclose any lien, mortgage or security interest created hereunder, either on any matured portions of the indebtedness or for the whole indebtedness, shall never be considered an election so as to preclude foreclosure under powers of sale herein contained after a final judgment on the debt or the dismissal of the suit for foreclosure.

Section 14. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. No structure, building or improvement of any character shall be erected or placed or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot until the construction plans and specifications and a plan showing the location of the structure or improvements have been submitted to and approved in writing by the Architectural Control Committee, as to compliance with these restrictions, harmony of color and external design with existing and proposed structures and as to location with respect to topography and finished grade elevation. The initial members of the Architectural Control Committee shall be Thomas L. Walker, Tyler D. Todd, and Margaret S. Slussler. If there exists at any time one or more vacancies in the Architectural Control Committee, the Declarant may designate successor member(s) to fill such vacancy or vacancies. The Architectural Control Committee and the individual members thereof shall not be liable for any act or omission in performing or purporting to perform the functions delegated herein. In the event the Committee fails to indicate its approval or disapproval within sixty (60) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. Declarant may delegate to a subcommittee formed for that purpose a part of the duties of the Architectural Control Committee. Declarant shall assign its right to appoint the members of the Architectural Control Committee to West Place Green Homeowners Association, Inc., when one hundred percent (100%) of all Lots in West Place are

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sold to Owners, or at such earlier time as Declarant may elect. The approval or lack of disapproval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by such Committee including, without limitation, any warranty or representation relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes, and regulations. The Architectural Control Committee shall have full authority to employ such professionals that may be required to determine approval or disapproval of submitted plans, including, but not limited to, architects, engineers, accountants and attorneys, and any fees that such professionals may charge shall be a charge to the Owner requesting approval of submitted plans. On matters in this Declaration which are specifically reserved to the discretion of the Architectural Control Committee, the decision of the Committee shall be final.

Section 2. Guidelines. The Declarant may develop and promulgate policy guidelines for the application of the architectural review provision in the Declaration. The policy guidelines shall include (a) review procedures, (b) aspects and objectives of review, and (c) principles and criteria used as standards in determining the achievement of the required objectives. The policy guidelines may also include specific design practices that, though optional, are generally acceptable methods for achieving the required objectives in particular design problems frequently encountered in the Properties. The policy guidelines are intended to assist the Architectural Review Committee and the Owners of Lots in the ongoing process of community design. The Declarant shall control and may modify the Guidelines until such time as when one hundred percent (100%) of all Lots in West Place are sold to Owners, or such earlier time that Declarant assigns such rights. Following the sale of all of the Lots to Owners, the Guidelines may be modified and supplemented from time to time, upon approval of a majority of the Board of Directors of the West Place Green Homeowners Association, Inc.

ARTICLE VI USE RESTRICTIONS AND EASEMENTS

Section 1. Single Family Residences. No Lot within the subdivision shall be used except for single-family residential purposes; provided, however, that until the Declarant, its successor or assigns shall have sold all of the lots in the subdivision, a sales field office and a construction field office and one or more model homes may be located and maintained on one or more Lots by each Builder, the location of each field office or model home may be changed from time to time as the lots are sold, provided that the approval of the Declarant is first obtained. The term "residential purposes" as used herein excludes hospitals, clinics, apartment houses, boarding houses, hotels, churches and all commercial and professional uses; all such uses of property in the subdivision are hereby prohibited. It is however expressly provided that Reserve "A" out of West Place, defined herein as the Common Area, may be used for recreational and such other purposes as the Board of Directors of the Association may determine in the best interest of the Owners.

Section 2. Location of Buildings. No building shall be placed or maintained on any Lot nearer to the street than the front or side street building set back lines shown on the recorded plat.

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For the purposes of this Declaration, caves, steps, unroofed porches and roof overhangs shall not be considered in any measurement made for the purpose of determining building placement. For the purposes of this Declaration, the front of each Lot shall coincide with and be the property line having the smallest dimension abutting a street. Each main residence building will face the front of the Lot, and will be provided with driveway access from the front of the Lot only; except that garages on the corner Lots may face the side street. The Architectural Control Committee shall be empowered to grant exceptions for minor variances in the placement of any building on a Lot. It shall be the intention of this Declaration to allow placement of residential structures at the option of any entity constructing a dwelling on any Lot using one of two (2) acceptable methods of placement, which methods are defined and shall be hereinafter known as follows:

1. Zero Lot Line Option.

- (a) Placement. The front building setback line shall be as hereinabove required. Each residence dwelling shall be designed so as to provide that a minimum of fifty percent (50%) of the linear distance of one (1) wall of the residence structure shall be constructed adjacent to and abutting a side lot line. Such side lot line where there is such construction shall be hereinafter referred to the "Zero Lot Line." Provided however, that an open court or patio may be built adjacent and abutting the aforementioned Zero Lot Line, but said open court or patio must be enclosed by a masonry or wood wall having a minimum height of eight (8) feet. This wall must, as is the case with the residence wall, be constructed adjacent to the abutting Zero Lot Line and enclose the court or patio in such a manner as to appear to be an extension of the residence dwelling. The Zero Lot Line walls shall have no exterior objects or appurtenances such as, for example, there shall be no electric panels, vents, plumbing clean outs, windows or opening of any kind unless such Zero Lot Line side is on the street side of a corner lot. If the Zero Lot Line side is on the street side of a corner lot, normal openings and exterior appurtenances may be constructed on the dwelling abutting the Zero Lot Line. There is hereby established a six (6) foot minimum distance between the Zero Lot Line and the residence dwelling situated upon the adjoining Lot. No dwelling shall be located on any Lot within any Utility Easement along the rear lot line.

- (b) Zero Lot Line Access Easement. Upon the election of Declarant, its successors and/or assigns of the Zero Lot Line Option, as evidenced by completion on a Lot of construction of any residence complying therewith, each such lot shall have an access easement not less than three (3) feet in width extending the entire depth of the lot from front to back abutting and parallel to the Zero Lot Line wall, over, on and across the adjacent lot, for the construction, repair, and maintenance of improvements located on the Zero Lot Line. Conditions and use of the Zero Lot Line Access Easement are hereby declared and established by and between the

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owner of the Zero Lot Line lot and the owner of the adjacent lot, which shall be covenants running with the land and binding both of the above-mentioned owners and all of the respective heirs and assigns forever; to wit:

(i) The Zero Lot Line lot owner must replace any fencing, landscaping or other items on the adjacent lot that he may disturb during construction, repair, or maintenance.

(ii) This easement, when used by the Zero Lot Line lot owner for such construction, repair or maintenance, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced.

(iii) The Zero Lot Line lot owner must notify the owner of the adjacent lot to his intent to do any construction, repair or maintenance upon the Zero Lot line wall at least twenty-four (24) hours prior to starting any work, with the hours that such access easement may be utilized being between 8:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. through 6:00 p.m. on Saturday.

(iv) Both the Zero Lot Line lot owner and the adjacent lot owner shall have the right of surface drainage over, along and upon the access easement area. Neither owner shall use the access easement area in such a manner as will interfere with such drainage.

(v) Neither owner shall attach any object to the Zero Lot Line wall, facing onto the access easement area and the owner of the adjacent lot will not use the Zero Lot Line wall as a playing surface for any sport. In addition, no structure shall be constructed or placed upon the access easement area by either owner, except the roof overhang and guttering as provided for above, and a fence by the owner of the adjacent lot, which allows drainage; however, access to the access easement must be preserved for the owner of the Zero Lot Line lot.

2. Equal Set Back Option. The front setback line shall be as hereinabove required. Each residence dwelling shall not be located on the Lot nearer than three (3) feet from either side property line, nor nearer to the rear property line than the width of the utility easement on the Lot as shown on the recorded plat.

It is further provided that each Lot or parcel in the subdivision shall be subject to an easement for minor (one foot or less) encroachments created by construction, settling, overhangs, brick ledges, fences, or other protrusions constructed by the Declarant or Lot Owner as long as it stands, and shall and does exist. In the event any dwelling in the subdivision is partially or totally destroyed, and then rebuilt, the owners affected agree that minor encroachments onto adjacent property due to construction, reconstruction, or repair shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

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Section 3. Minimum Square Footage Within Improvements. The living area in the main residential structure (exclusive of one story open porches and garages) shall not be less than eight hundred (800) square feet for one story dwellings. The total square footage for one and one-half story dwellings (exclusive of one story open porches and garages) shall not be less than one thousand (1,000) square feet. The total square footage for two story dwellings (exclusive of one story open porches and garages) shall not be less than one thousand two hundred (1,200) square feet. No residential structure shall be erected or placed on any building Lot or plot in the subdivision having an area of less than two thousand five hundred (2,500) square feet. Notwithstanding the minimum square footage requirements set forth above in this section, the Architectural Control Committee, at its sole discretion, is hereby permitted to approve a living area in the main residential structure (exclusive of one story open porches and garages) of less than eight hundred (800) square feet, provided that the plans for such main residential structure shall be submitted in advance for the prior written approval of the Architectural Control Committee. The Architectural Control Committee, at its sole discretion, is hereby permitted to approve other deviations in any building area herein prescribed in those instances in which, in their sole judgment, such deviation will result in a more common beneficial use. Such approvals must be granted in writing and when given will become part of these restrictions to the extent of the particular Lot involved.

Section 4. Height of Building. No building erected on any Lot (except chimneys attached to the main dwelling) shall exceed the height of thirty-five (35) feet.

Section 5. Exterior Materials. The exterior of the main residential structure and any garage shall be constructed of or covered with such materials as the Developer or Association shall from time to time permit in Guidelines developed for the Architectural Control Committee. The decision as to whether certain materials meet the Guidelines shall rest exclusively with the Architectural Control Committee. Any other type of construction material shall be permitted only at the sole discretion of the Architectural Control Committee upon written request.

Section 6. Composite Building Site(s). Any Owner of one or more adjoining Lots (or portions thereof) may consolidate such lots or portions into single family residential building site(s), with the privilege of placing or constructing improvements on such site(s), in which case any applicable setback lines shall be measured from the resulting side property lines rather than from the Lot lines shown on the recorded plat. Any such proposed composite building site(s) must be approved by the Architectural Control Committee.

Section 7. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat, and no structure, building or improvement of any kind shall be erected upon any of said easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers or improvements of the Owner located on the land within or affected by said easements.

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Section 8. Utility Connections. The Owner of each Lot on which permanent improvements are being constructed shall, prior to the time that such improvements are occupied (either temporarily or permanently), connect such improvements to the public water and sewage facilities at the Owner's expense.

Section 9. Prohibition of Trade and Offensive Activities. No activity which is not related to single family residential purposes, whether for profit or not, shall be conducted on any Lot. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the neighborhood. No machinery, appliances, mechanical equipment, boats, motor homes, or trailers of any kind shall be placed, operated, or maintained on the driveway of any Lot or within view of any street. Declarant, or its assigns, may maintain as long as it owns property in West Place, in or upon such portions of the properties as Declarant may determine, such facilities as in its sole discretion may be necessary or convenient, including, but without limitation to, offices, storage areas, model units, and signs, and Declarant may use, and permit Builders to use residential structures, garages or other permitted accessory buildings for sales offices and display purposes, but all rights of Declarant and of any Builder acting with Declarant's permission under this provision shall be operative and in effect only during construction and the Builder's sales period.

Section 10. Use of Temporary Structures. No structures of a temporary character, mobile home, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence. For the purposes of this section, a mobile home trailer shall be considered as being of temporary character, whether permanently immobilized and connected to utilities or not. Portable buildings used for accessory or storage purposes shall be limited to not more than eight (8) feet in height and shall be subject to approval of the Architectural Control Committee. Temporary structures shall be inconspicuous and slightly and shall be removed immediately after completion of construction and shall be subject to approval of the Architectural Control Committee.

Section 11. Storage of Automobiles, Boats, Trailers, and Other Vehicles. No motor vehicle may be parked or stored on any part of any Lot, easement, right-of-way or common area or in the street adjacent to any Lot, easement, right-of-way or common area unless such vehicle is completely concealed from public view inside a garage or other approved enclosure, except passenger automobiles, passenger vans, motorcycles, or pick-up trucks that are in operating condition, having current license plates and inspection stickers, are in daily use as motor vehicles on the streets and highways of the State of Texas and which do not exceed six feet, six inches in height, or seven feet, six inches in width, or twenty-one feet in length.

No camper, trailer, boat, marine craft, hovercraft, aircraft, non-motorized vehicle, machinery or equipment of any kind may be parked or stored, on any part of any Lot, easements, right-of-way or common area or in the street adjacent to such Lot, easement, right-of-way, or common area unless such object is completely concealed from public view inside a garage or other approved enclosure.

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Section 12. Mineral Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any Lot. No derrick or other structures designed for the use of boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

Section 13. Walls, Fences and Hedges. No wall, fence or hedge shall be erected or maintained nearer to the front Lot line than the front building line on such Lot, nor on corner lots nearer to the side Lot line than the building setback line parallel to the side street. No side or rear fence, wall or hedge shall be more than eight (8) feet in height. No chain link fence type construction will be permitted on any Lot. Any wall, fence, or hedge erected on a Lot by Declarant, or its assigns, shall pass ownership with title to the Lot and it shall be Owner's responsibility to maintain said wall, fence or hedge thereafter. Approval of the Architectural Control Committee shall be obtained prior to the erection of any wall, fence or hedge on any Lot. For the purposes of this Section 13, a hedge shall be defined as a row of bushes, shrubs or trees which, at natural maturity, may exceed three feet (3') in height and have sufficiently dense foliage as to present a visual and physical barrier in the same manner as a fence.

Section 14. Lot Maintenance. All Lots shall be kept and maintained in a sanitary, healthful and attractive condition, and the Owner or occupants of all lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful, and attractive manner and shall in no event use any Lot for storage of material and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash, or rubbish of any kind or the burning (except as permitted by law) of any such materials is prohibited. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days written notice thereof, Declarant, or its assigns, may without liability to Owner or occupant, but without being under any duty to so do, in trespass or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass and remove or cause to be removed, such garbage, trash, and rubbish or do any other thing necessary to secure compliance with these restrictions and to place said Lot in a neat, attractive, healthful, and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof.

Section 15. Signs, Advertisements, Billboards. No sign, advertisement, billboard, or advertising structure of any kind shall be displayed to the public view on any Lot, except one for each building site of not more than five (5) square feet advertising the property for sale or rent, or signs used by builder or the Declarant to advertise the property during the construction and sales period, and a sign or signs erected at the entrance(s) of the subdivision or the Common Area as permanent identification thereof. Declarant or the Association, shall have the right to remove any such sign, advertisement, billboard, or structure which is placed on said lots, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.