

1.07 Bylaws. "Bylaws" shall mean the Bylaws of the Association as adopted by the Board, and as from time to time amended.

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1.08 [Intentionally omitted]

1.09 Declaration. "Declaration" shall mean this instrument, and as it may be amended from time to time.

1.10 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, Outbuildings, storage sheds, barns, walkways, driveways, parking lots, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, lighting, exterior sound systems, mailboxes, signs, exterior air conditioning, water softener fixtures or equipment, poles, pumps, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities, water catchment and detention structures, landscaping, addition or removal of trees, cut and fill, and regrading.

1.11 Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a Plat of a Subdivision out of the Property, together with all Improvements located thereon.

1.12 Member. "Member" or "Members" shall mean any person, persons, entity, or entities holding membership rights in the Association.

1.13 Mortgage. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the Property given to secure the payment of a debt.

1.14 Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

1.15 Owner. "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any portion of the Property, but shall not include a Mortgagee.

1.16 Outbuildings. "Outbuildings" shall mean all structures, whether or not enclosed or roofed, ancillary to the main structure on a Lot.

1.17 Person. "Person" or "Persons" shall mean any individual, individuals, entity, or entities having the legal right to hold title to real property.

1.18 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including but not limited to those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, plans for utility services, and all other documentation or information relevant to such improvement.

1.19 Property. "Property" shall mean that real property which is subject to the terms of this Declaration, which is comprised of the property described in the Plat, plus any land added, less any land withdrawn, in accordance with Section 2.01 below.

1.20 The Frog Pond Restrictions. "The Frog Pond Restrictions" shall mean this Declaration, together with The Frog Pond Rules, Architectural Committee Rules and the Articles and Bylaws of the Association, as the same may be amended from time to time.

1.21 The Frog Pond Rules. "The Frog Pond Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

1.22 Subdivision. "Subdivision" shall mean that portion of the Property which is subdivided as shown on a plat recorded at Volume 8, Pages 73-74, Plat Records of Hays County, Texas.

1.23 Supplemental Declaration. "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order to withdraw land from the Property.

ARTICLE II DEVELOPMENT OF THE PROPERTY

2.01 Addition or Withdrawal of Land. Land may be added to or withdrawn from the covenants, conditions, and restrictions set forth in this Declaration with the written consent of the Owner of said Land and two-thirds (2/3) of the Owners. A notice of addition or withdrawal of land shall be thereafter recorded in the Official Public Records of Hays County, Texas.

ARTICLE III GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

3.01 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located on the Property without the prior written approval of the Board.

3.02 Subdividing. No Lot shall be further divided or subdivided nor may any easements or other interests in the Lot less than the whole be conveyed by the Owner without the prior written approval of the Architectural Committee.

3.03 Earthwork. All changes to the contours of a Lot shall be approved in advance by the Architectural Committee. No movement of earth by mechanical means, cut and fill, removal or deposit of rock or soil materials shall occur without Architectural Committee approval.

3.04 Signs. No permanent or temporary sign or banner of any kind shall be displayed or erected on the Property without the prior written approval of the Architectural Committee. The Architectural Committee may adopt standards for signage and procedures for bypassing submission and approval for signs that adhere to said standards. Lot 1 is exempt from this restriction.

3.05 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property or any Lot and no odors shall be permitted to arise therefrom so as to render the Property or any portion of it unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. No part of the Property shall be used or maintained as a dumping ground for rubbish. No incinerators or other equipment for the storage or disposal of such material shall be permitted. Within the area 100 feet from the roadway (including the area within the road right of way), each Owner shall (i) keep his Lot free of unsightly objects and mowed and (ii) trim all trees and bushes.

3.06 Noise. No exterior horns, whistles, bells, or sirens (other than security devices used exclusively for security purposes) shall be located, used, or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants, including, but not limited to noise from animals, hobbies, or business activities.

3.07 Construction of Improvements. No Improvements shall be constructed upon any of the Property or any Lot without the prior written approval of the Architectural Committee. The exterior materials of buildings shall be brick, rock, stucco, wood, or such other material as is specifically approved by the Architectural Committee. The

visible portion of the roof of each building shall be constructed of concrete or clay tile, standing seam metal (not corrugated), or composition shingles, with all materials subject to approval by the Architectural Committee. No more than two feet of vertical surface of concrete slab or foundation skirting of any building shall be exposed to view from an adjacent Lot or road. No trailer, motor home, mobile home, tents, or other portable items located or placed on the Property or any Lot shall at any time be used as a residence. Propane, butane, or any other fuel tanks must be neatly screened so as not to be visible from an adjacent Lot or road, and must be located and maintained in accordance with applicable governmental regulations. No clotheslines shall be permitted on any Lot. No poles, exterior high intensity lights, flagpoles, towers, antennae, satellite dishes, solar panels, wind turbines, or devices similar in function or appearance to the foregoing shall be permitted without the prior written approval of the Architectural Committee. All Improvements and landscaping shall at all times be kept in good condition and repair and adequately maintained by the Owner. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvements, shall be performed only with the prior written approval of the Architectural Committee.

3.08 Firearms, Fireworks and Hunting. No hunting, trapping, or shooting shall be permitted on the Property. No firearms, except firearms for the personal protection of the Owner, shall be discharged within the Subdivision. No fireworks or firecrackers of any type shall be discharged within the Subdivision.

3.09 Hazardous Activities. No activities shall be conducted on the Property and no Improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no open fires shall be lighted or permitted except within safe and well-designed interior or exterior fireplaces, or in contained barbecue units while attended and in use for cooking purposes, and no hazardous or toxic substances (as defined by federal or state law) shall be allowed in the Subdivision except in accordance with governmental safety mandates and requirements.

3.10 Temporary Structures. No tent shack, or other temporary building, improvement or structure shall be placed upon the Property without the prior written approval of the Architectural Committee.

3.11 Septic Systems. The design, location, and installation of septic tank and soil-absorption sewerage disposal systems shall be in accordance with the minimum recommendations of the State of Texas, and inspected by a person so authorized by Hays County, Texas, or the State of Texas. In addition, the Architectural Committee shall have the right to disapprove plans for a septic system whose design or location may adversely impact neighboring Lots and to require installation of a septic system of an alternative type, design, or location.

3.12 Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

3.13 Unightly Articles; Vehicles. No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the above, the foregoing includes vehicles, trailers of all types, and equipment; and the same shall be kept at all times (except when in actual use) in enclosed structures or screened from view. All repair or maintenance work shall be done in enclosed garages or other structures. Service and storage areas shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse, or trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or completely screened from view of other Lots.

3.14 Parking. The parking areas on each Lot shall be large enough to accommodate all vehicle traffic and storage generated by the occupant's use of the Lot, and no vehicles or equipment shall be parked on any roadway within the Subdivision.

3.15 Animals - No animals, livestock or poultry of any kind shall be allowed on the Property or any Lot, nor shall any other animal or fowl be kept on any Lot, except dogs, cats and other ordinary household pets not kept for breeding purposes. The number of animals that may be kept on any Lot shall be subject to limitation by the Board. Animals shall not be permitted to roam the Subdivision freely and their presence shall not be allowed to

create a disturbance within the Subdivision. All animals, when allowed outdoors, shall be kept within an enclosed area, which must be kept clean, odor-free, sanitary and reasonably free of waste at all times.

3.16 Drainage and Erosion. Improvements shall be located and constructed in such a manner as not to alter the natural drainage pattern on the Lot; provided that an Owner may channel surface water across that Owner's Lot directly to an approved drainage/retention structure or the street. At all times during construction, effective and adequate erosion control fences, berms, and other protective devices shall be used as needed to minimize erosion.

3.17 Unfinished Structures. The exterior of a structure shall be completely finished within six (6) months after the date that construction has been commenced. If the structure has a foundation, construction shall be deemed to commence on the date construction of the foundation begins.

3.18 Fences and Walls. The design, height, location, and materials of all fences and walls must be approved prior to construction by the Architectural Committee. If the structure has a foundation, construction shall be deemed to commence on the date construction of the Foundation begins.

3.19 Trees. No trees more than 15 feet in height shall be removed without the approval of the Architectural Committee.

3.20 Setback, Location, and Height Requirements. All structures located on a Lot shall be set back from the boundaries of the Lot as shown on the recorded plat of the Subdivision. The location of each structure on a Lot must be approved by the Architectural Committee. The height of the structure shall not exceed 30 feet (as measured from the top of the foundation) without the prior written consent of the Architectural Committee.

3.21 Landscaping. Each Owner shall landscape the Lot as required by the Architectural Committee.

3.22 Frogpond Lane. For so long as Frogpond Lane is a private road, it shall be maintained by the Association. Landscaping and maintenance of any unpaved right-of-way along Frogpond Lane may also be provided by the Association, in its discretion.

ARTICLE IV USE RESTRICTIONS

4.01 General. The Property shall be improved and used solely for office and commercial purposes, provided that no Lot shall be used for agricultural sales or service; automobile repair; automobile rental; automobile washing; bail bond services; blood plasma center; commercial livestock operation; equipment or engine service or repair; equipment or trailer sales; extermination services; feedlot; hotel, motel, or boarding house; junk or scrap materials yard; kennel; labor pool; residential treatment services; recycling center; service station; telecommunications tower; transitional housing or halfway house; veterinary offices; wrecking yard; or wrecked vehicle storage. Manufacturing and repair services may occur on the Property only within enclosed structures, and only if the same does not produce undue noise, unpleasant odors, or undesirable airborne particulates, as determined by the Board in its sole discretion.

ARTICLE V THE FROG POND OWNERS ASSOCIATION, INC.

5.01 Organization. The Owners of more than 50% of the Property shall, at such time as Owners deem appropriate, cause the formation and incorporation of the Association. The Association shall be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws and in this Declaration. Neither the Articles nor the Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.02 Membership. Any Person, upon becoming an Owner, shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner

thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated, except together with the title to the said property interest.

5.03 Voting Rights. Each Lot within the Property shall have one vote; if a Lot has multiple owners, the vote shall be cast in accordance with the direction of a majority of Owners of the Lot.

5.04 Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

(a) The Frog Pond Rules and Bylaws. To make, establish, and promulgate, and in its discretion to amend or repeal and re-enact, such The Frog Pond Rules and Bylaws, not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

(b) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions.

(c) Records. To keep books and records of the Association's affairs.

(d) Assessments. To levy assessments as provided in Article VII below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article VII in order to raise the total amount for which the levy in question is being made.

(e) Right of Entry and Enforcement. To enter at any time in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot for the purpose of enforcing the Frog Pond Restrictions or for the purpose of maintaining or repairing any area, improvement or other facility to conform to the Frog Pond Restrictions, and the expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Frog Pond Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Frog Pond Restrictions.

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(g) Remedies. In the event of a violation of The Frog Pond Restrictions or the terms of approval for construction given by the Architectural Committee, the Association may suspend voting rights, withhold approval of plans, and/or impose fines on the Owner, in addition to any other remedies allowed by law.

(h) Manager. To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power, or function so delegated.

(i) Property Services. To pay for landscaping, gardening, utilities, services and maintenance for the property of the Association; to maintain and repair easements, roads, roadways, rights-of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes and other areas of the Property, as the Board deems appropriate.

(j) Other Services. To obtain and pay for any other goods and services for the benefit of the Association.

(k) Construction Monitoring. To monitor construction of improvements in the Subdivision to ensure compliance with the terms of approval of the Architectural Committee.

(l) Contracts. To enter into contracts on such terms and conditions as the Board shall determine.

(m) Property Ownership. To acquire and own and to dispose of all manner of real and personal property, whether by grant, lease gift, or otherwise.

5.05 Street Maintenance and Lighting. The Association shall maintain all Subdivision streets which have been completed but not accepted by a governmental entity for maintenance, and may, in its discretion, maintain any landscaping located at the entrance of the Property or along the unpaved right-of-way for Frog Pond Lane, and any median strips thereon, and install and maintain street lights along Frog Pond Lane.

5.06 Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (a) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (b) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of Nolo Contendere, or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant, or agent of the Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

ARTICLE VI
ARCHITECTURAL COMMITTEE

6.01 Membership of Architectural Committee. The Architectural Committee shall consist of not more than three (3) members ("AC Members"). The initial AC Members shall be Thomas R. (Rod) Reames and Thomas Mark Maroney.

6.02 Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the AC Members.

6.03 Term. Each member of the Architectural Committee shall hold office until such time as he or she has resigned or has been removed or his or her successor has been appointed, as provided herein.

6.04 Appointment of ACC. The Board shall have the right to appoint and remove one or more AC Members, with or without cause; provided that Thomas R. Reames shall be an AC member for so long as he, or any company under his ownership or control, owns any lot in the Subdivision.

6.05 Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties,

including but not limited to a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable. Each Owner shall comply with said rules as the same may be amended from time to time, and failure to comply with said rules shall constitute a default of this Declaration, and any Owner, at its sole expense and/or the Board may seek any of the remedies set forth herein for default of this Declaration.

6.06 Review of Proposed Construction. Whenever in this Declaration, or in any Supplemental Declaration, the approval of the Architectural Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are relevant. Prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Committee. The Architectural Committee may review Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Architectural Committee of any information or document deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with a high-quality commercial and professional development. The Architectural Committee shall have sole discretion to approve or disapprove Improvements based upon the factors set forth in this Declaration, and the decision of the Architectural Committee shall be final and binding so long as it is not arbitrary, capricious, or discriminatory. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof, from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

6.07 Variance. The Architectural Committee may grant variances from compliance with any of the provisions of this Declaration, or any Supplemental Declaration, when, in the opinion of the Architectural Committee, in its sole and absolute discretion, such variance will not materially impair or detract from development of the Property, and such variance is justified due to site specific or aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument, in recordable form, and must be signed by a majority of the ACC Members. The granting of such variance shall not operate to waive or amend any of the terms and provisions of The Frog Pond Restrictions applicable to the Lots for any purpose except as to the particular property and in a particular instance covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification, or amendment of the terms and provisions hereof.

6.08 Fees. The Architectural Committee shall have the right to require a reasonable submission fee for each set of Plans and Specifications submitted for its review.

6.09 No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

6.10 Work in Progress. The Architectural Committee, at its option, may inspect all work in progress to insure compliance with approved Plans and Specifications.

6.11 Nonliability of Architectural Committee Members. Neither the Architectural Committee, nor any Member thereof, nor the Board, nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Committee or its Member or the Board or its member, as the case may

be. Neither the Architectural Committee, nor the ACC Members thereof, shall be liable to any Owner due to the construction of any Improvement within the Property.

6.12 Address. Plans and Specifications shall be submitted to the Architectural Committee, c/o Thomas R. Reames, 5206 Rambling Range, Austin, Texas 78727, or such other address as may be designated by the Association from time to time.

ARTICLE VII FUNDS AND ASSESSMENTS

7.01 Assessments.

(a) Assessments established by the Board pursuant to the provisions of this Article VII shall be levied on a uniform basis against each Lot within the Property. The amount of the Assessment shall be determined by dividing the total amount determined by the Board to be necessary pursuant to Section 7.03 and/or 7.04 hereof by the total number of lots within the Subdivision.

(b) Each unpaid assessment, together with late charges assessed by the Board, interest, and costs of collection, as provided below, shall be the personal obligation of the Owner of the Property against which the Assessment fell due, and shall become a vendor's lien against each such Lot and all its Improvements. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

7.02 Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used for purposes authorized by this Declaration, as it may from time to time be amended, and purposes reasonably incidental thereto.

7.03 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Frog Pond Restrictions, including but not limited to, the cost of all maintenance, the cost of providing street lighting (if any), the cost of enforcing the Frog Pond Restrictions, the cost of management and professional services and insurance, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as provided herein, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including non payment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as provided above. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal periodic installments (monthly, quarterly, semi-annually, or annually, as determined by the Board) on or before the first day of each period, or in such other manner as the Board may designate in its sole and absolute discretion. In no event shall the regular annual assessment per Lot for the year 2005 exceed the sum of \$300.00. Thereafter, at the Board's sole and absolute discretion, the maximum regular annual assessment permitted hereunder may be increased by no more than twenty percent (20%) per year. The maximum regular annual assessment may be increased by more than twenty per cent (20%) during a year only by affirmative vote of two-thirds (2/3) of the Members, voting in person or by proxy, at a meeting duly called for such purpose.

7.04 Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the functions of the Association under the Frog Pond Restrictions. The amount of any special Assessments shall be at the reasonable discretion of the Board.

7.05 Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any

such Assessment, the Owner of the lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof, and a late charge not exceeding \$25 per month, together with all costs and expenses of collection, including reasonable attorneys' fees.

7.06 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with late charges interest as provided in Section 7.05, and the cost of collection, including reasonable attorneys' fees, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors, or assigns. This lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the acquisition or improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board. The Association may, but need not, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a description of the Lot. Such notice shall be signed by a representative of the Association and shall be recorded in the office of the County Clerk of Hays County, Texas. Such lien for payment of Assessments shall attach with the priority set forth above from the date that such payment became delinquent and may be enforced by the non-judicial foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property, or the Association may institute suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorneys' fees incurred by the Association. The Association shall have the power to bid on the property at foreclosure, or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due.

**ARTICLE VII
EASEMENTS**

8.01 Reserved Easements. All dedications, limitation, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights, made prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed, or conveyance executed, or to be executed, conveying any part of the Property.

8.02 Installation and maintenance. There is hereby created an easement upon, across, over and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including, but not limited to, water, gas, telephones, electricity and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wire, conduits, service lines, or other utility facilities or appurtenances thereto, on above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. Notwithstanding any provision contained in this section, no electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by the Architectural Committee. The utility companies furnishing service shall have the right to remove all trees situated within the utilities easements shown on the Plat, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

8.03 Drainage Easements. Each owner covenants to provide easements for drainage and water flow, as required by the contours of the land and the arrangement of Improvements approved by the Architectural Committee. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as approved in writing by the Architectural Committee.

8.04 Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns, or flowers. The supplier of any utility service using any easement area shall not be liable to any Owner or to the Association for any damage done by it or its agents, employees, servants or assigns,

to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation, or repair of any facility in any such easement area.

ARTICLE IX MISCELLANEOUS

9.01 Term and Amendment. The initial term of this Declaration shall run until December 31, 2028. After December 31, 2028, this Declaration shall be automatically extended for successive periods of ten(10) years each. During the initial term, the Declaration may be amended or vacated by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the Property then subject to this Declaration; and in the renewal terms, this Declaration may be amended or vacated by written instrument executed by Owners of at least two-thirds (2/3) of the Lots within the Property then subject to this Declaration.

9.02 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Development set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

9.03 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

9.04 Compliance with Provisions of The Frog Pond Restrictions. Each Owner shall comply strictly with the provisions of the Frog Pond Restrictions as the same may be amended from time to time. Failure to comply with any of the Frog Pond Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

9.05 Enforcement and Nonwaiver.

(a) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, and/or the Association shall have the right to enforce all of the provisions of The Frog Pond Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

(b) Nonwaiver. The failure to enforce any provision of the Frog Pond Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

(c) Attorney's Fees. In any action to enforce or construe this Declaration or The Frog Pond Restrictions, the prevailing party shall be entitled to recover reasonable attorney's fees.

9.06 Construction.

(a) Restrictions Severable. The provisions of the Frog Pond Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

