

6-17-11
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**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
WESTGATE SUBDIVISION**

STATE OF TEXAS :
: KNOW ALL MEN BY THESE PRESENTS
COUNTY OF HARRIS :

THIS DECLARATION is made on the date hereinafter set forth by 529 Partners, Ltd., a Texas limited partnership, organized under the laws of Texas;

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Harris County, Texas described on Exhibit "A" attached hereto (the "Property"); and

WHEREAS, Declarant desires to develop the Property as a residential subdivision, together with any other land which Declarant at its sole discretion may hereinafter add thereto, and to provide and adopt a plan of development including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control and preserve the values and amenities of the Property for the development, improvement, sale, use and enjoyment of the Property as a residential subdivision; and

WHEREAS, Declarant desires to subject the Property, together with additional land as may hereinafter be made subject hereto, to the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, for the benefit of the Property, additions thereto, and each Owner of any part thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said subdivision, to create an Association (hereinafter defined) to which shall be delegated and assigned the power of administering and enforcing these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the

assessments; and

WHEREAS, there has been incorporated the Westgate Homeowners's Association, Inc., a non-profit corporation created under the laws of the State of Texas, whose directors have or will have established By-Laws by which said Association shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, all of which are hereby adopted for, and placed upon said Property and shall run with the Property and be binding on all parties, now and at anytime hereinafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, and shall inure to the benefit of each Owner of any part of the Property.

ARTICLE I. DEFINITIONS OF TERMS.

The following words when used herein shall have the following meanings when capitalized (unless the context requires otherwise and the term is then not capitalized):

- A. "ARC" means the Architectural Review Committee established for the Property as set forth in Article VIII, Section A.
- B. "Annual Assessment" means the assessment levied against all Lots for the purposes set out in Article XIII, Section B.

- C. "Architectural Guidelines" mean a publication of the ARC that sets forth various standards relating to construction and interpretations, which publication may be amended without notice to owners or another association organized by Declarant, its successors or assigns to fulfill the same obligation of Association. However not more than one association may exist at any one time.
- D. "Association" means the WESTGATE HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns, which has jurisdiction over all properties located within the land encumbered under this Declaration, as set out in Exhibit "A" attached hereto.
- E. "Board" means the duly elected Board of Directors of the Association.
- F. "Builder" means each Owner who is in the construction business or a party who regularly engages in the construction business who is constructing a Dwelling upon a Homesite for an Owner.
- G. "Building Guidelines" means general guidelines as to construction types and aesthetics as set by the ARC, which may be changed without notice to the Owner.
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- H. "By-Laws" means the By-Laws of the Westgate Homeowners' Association, as they may be amended from time to time.
- I. "Common Area" means all real property owned in fee or held in easement by the Association for the common use and enjoyment of the Owners and shall include areas designated by Declarant to be conveyed by deed or easement to the Association.
- J. "Declarant" means 529 Partners, Ltd., its successors and assigns, as evidenced by a written, recorded instrument.

- K. "Declaration" means this Declaration of Covenants, Conditions, Restrictions, and Easements for Westgate Subdivision.
- L. "Dwelling" means a structure or structures intended for residential use.
- M. "Eligible Property" means all of the property eligible to become subject to this Declaration, which includes property adjoining and/or in the vicinity of the Property described on Exhibit "A" hereto regardless of whether such property is owned by Declarant or another party.
- N. "Homesite" means one or more Lots upon which a single family Dwelling may be erected subject to this Declaration.
- O. "Limited Common Areas" means Common Areas that are restricted for use by some Members but by less than all Members of Westgate.
- P. "Westgate" and/or "Westgate Subdivision" means Westgate Subdivision, located in Houston, Harris County, Texas; Westgate Subdivision is more particularly described as the land set forth in Exhibit "A" hereto, which may be amended as additional land is annexed into the subdivision.
- Q. "Lot" means a parcel of Property platted or replatted as one lot in the Map Records of Harris County, Texas, and encumbered by this Declaration. Homesites may be comprised of more than one Lot; each such Lot will be subject to the rights and duties of membership in the Association. There shall be an assessment due for each Lot owned.
- R. "Plan" shall mean and refer to the land use plan for the development of Westgate prepared by or at the request of Declarant, as it may be amended by Declarant in its sole and absolute discretion, from time to time, which plan includes the property described on Exhibit "A". Said Plan may include other property which Declarant may, without the obligation to do so, from time to time subject to this Declaration by a subsequently recorded written document. Inclusion of property on the Plan shall not, under any circumstances, obligate Declarant to

subject such property to this Declaration. Additionally, any use indicated on the Plan is tentative and subject to change by the Declarant without notice to the Owners.

- S. "Member" means an Owner, as defined in this article, who is in good standing per Article V, Section A. "Residential Members" are members who own Lots with specific use restrictions placed on a particular Member's Property when acquired.
- T. "Owner" means an owner of any portion of the Property. Any person or entity obtaining title to an Owner's property subject to this Declaration shall also be deemed an Owner. Persons or entities owning property annexed into the Association shall also be deemed Owners. Persons or entities holding title only as a lienholder shall not be an Owner for purposes of this Declaration.
- U. "Property" means all of the property subject to this Declaration, as more properly described on attached Exhibit "A".
- V. "Recreational Sites" means Common Area Property that is set aside for use as recreational facilities, reserves, or green space and is encumbered by this Declaration, a recorded plat, or both.
- W. "Residential Property" shall refer to Lots that may only be developed for single family Dwellings.
- X. "Special Assessment" means an assessment levied under Article XII, Section D for a specific purpose.
- Y. "Tract" means a parcel of land to be developed for any purpose other than single family residential use.

ARTICLE II. PURPOSE AND INTENT.

Westgate Subdivision as initially planned, is intended to be a mixed-use development that is planned to feature residential and recreational uses. The Declaration may develop multi-family and/or commercial projects in or around Westgate which will not be subject to this Declaration. Each Owner acknowledges by purchasing land within Westgate that there may exist commercial and/or multi-family projects in and around Westgate. The multi-family and/or commercial projects will not be members of Westgate.

This Declaration shall serve as the means by which design, development, construction, and maintenance of the Property and Eligible Property anticipated to be a part of Westgate will be developed. The Plan of the Declarant for Westgate shall be subject to change as necessary in the sole and absolute discretion of the Declarant.

ARTICLE III. PROPERTY SUBJECT TO RESTRICTIONS.

A. Exhibit "A"

Exhibit "A" contains the Property that is initially encumbered by this Declaration and is therefore a part of Westgate Subdivision. Owners of Property contained on Exhibit "A" are Members of the Association and have executed this Declaration.

B. Annexation of Additional Property

Without the joinder of any other Owners or Members, the Declarant shall reserve the exclusive right for twenty-five (25) years following the execution of this Declaration to add additional land, including, without limitation, the Eligible Property, into Exhibit "A" hereto, thereby increasing the amount of Property.

The right of the Declarant to annex land under this Section shall pass to the Association upon the expiration of the twenty-five (25) year term granted above or upon the termination of Class "B" Membership pursuant to Article V, Section C, whichever occurs first.

ARTICLE IV. SUPPLEMENTAL RESTRICTIONS.

Declarant may subject selected sections of Westgate Subdivision to supplemental restrictions by recording them in the real property records in Harris County, Texas.

ARTICLE V. MEMBERSHIP AND VOTING RIGHTS.

A. Eligibility

Eligibility to vote or serve as a representative, director or officer shall be predicated upon a Member being in good standing with the Association. To be in good standing, the Member must have all assessments of every type and category paid up to date and have no outstanding financial obligations to the Association that are delinquent. Additionally, no Member shall be allowed to vote or hold office if that member is alleged in a formal written notice from the Association to have a deed restriction violation on one or more Lots in Westgate.

B. Membership

The sole criteria to become a member of the Association is to hold title to a Lot within Westgate Subdivision. This is not to imply that any holder of a mere security interest (such as a mortgagee, or holder of any other lien against property) would be a Member, unless that holder of the security interest foreclosed and thereby became the Owner of the Property. Membership is appurtenant to and runs with the land. Membership is not severable as an individual right and cannot be separately conveyed to any party or entity. Multiple owners

of any single Lot must vote in agreement (under any method they devise among themselves), but in no case shall such multiple Owners cast portions of votes. All of the votes attributable to any single Lot must be voted in the same manner (i.e. all votes for, or all votes against a particular issue).

All duties and obligations set forth in this Declaration or any Supplemental Restrictions are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration shall relieve Members or their successors or assigns of such duties or obligations. Mandatory membership shall begin with the execution of this Declaration and pass with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of members currently owning Property.

C. Voting Rights

The Association shall have two classes of membership, Class A and Class B, as follows:

1. Class A Membership:

Class A Members shall be all Members with the exception of Class B Members, if any. Each Class A Member's voting rights shall be based on the number of Lots owned as to Residential Property, and shall be determined as follows:

One (1) vote shall be granted per platted Lot of Residential Property.

2. Class B Membership:

Class B Members shall include the Declarant and such Owners as the Declarant may,

in its sole discretion, confer Class B Membership status upon. Each Class B Member's voting rights shall be based on the number of Lots owned as to Residential Property, and shall be determined as follows:

Ten (10) votes shall be granted per platted Lot of Residential Property.

Declarant shall retain the authority to appoint all members of the Board of Directors of the Association until 100% of the Property listed in Exhibit "A" is sold to Class "A" Members or January 1, 2010, whichever occurs later. Such elections shall be subject to the provisions of the Articles of Incorporation and Bylaws of the Association, or at such earlier time as Declarant may elect as to all or any number of appointments.

D. Voting Procedures

All votes may be cast by written proxy or directed ballots. The procedure for the use of the proxies and directed ballots shall be as prescribed in the Association's By-laws.

ARTICLE VI. EFFECTIVE DATE OF DECLARATION.

The covenants, conditions, and restrictions imposed on the Property shown on Exhibit "A" to the Declaration shall be effective as of the date the executed Declaration is recorded in the Real Property Records of Harris County, Texas.

ARTICLE VII. USE RESTRICTIONS.

A. Residential Uses Permitted

Homesites within Westgate shall be used exclusively for single-family residential purposes. No multi-family Dwellings may be constructed on any Homesite. No building, outbuilding or portion thereof shall be constructed for income property, such that tenants would occupy less than the entire Homesite. It is permitted for tenants to lease a residence in Westgate, so long as tenants are leasing the entire land and improvements comprising the Homesite. No Homesite shall be occupied by more than a single family. For purposes of this restrictions, a single family shall be defined as any number of persons related by blood, adoption or marriage living with not more than one (1) person who is not so related as a single household unit, and no more than two (2) persons who are not so related living together as a single household unit, and the household employees of either such household unit. It is not the intent of the Declarant to exclude from a Homesite any individual who is authorized to so remain by any state or federal law. If it is found that this definition, or any other provision contained in this Declaration is in violation of any law, then this Section shall be interpreted to be as restrictive as possible to preserve as much of the original section as allowed by law.

B. Non-Permitted Uses

1. No business nor business activity, whether for profit or not, shall be permitted in or on any Homesite, except that an Owner or occupant may conduct business activities that are merely incidental to the Owner's residential use within a Dwelling so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (b) the business activity conforms to all zoning requirements and other restrictive covenants applicable to the Property; (c) the business activity does not involve visitation of the Dwelling or Homesite by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of Westgate; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of

Westgate as may be determined in the sole discretion of the Board. A day-care facility, church, nursery, pre-school, or other similar facility is expressly prohibited.

The term "business" as used in this provision shall be construed to have its ordinary generally accepted meaning and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the manufacture or provision of goods or services for or to other persons other than the provider's family, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Dwelling shall not be considered a trade or business within the meaning of this Section. This Section does not apply to any activity conducted by the Declarant or by a Builder with approval of the Declarant with respect to its development and sale of the Property. Garage sales or yard sales (or any similar vending of merchandise) conducted on any Homesite shall be considered a business activity and therefor prohibited. The Association may, but shall not be obligated to, sponsor, organize or otherwise provide for a community wide garage sale.

No business vehicles displaying commercial signage or advertising shall be permitted to be parked within public view in residential sections of Westgate, other than service vehicles contracted by owners of Homesites to perform specific services.

No vehicles with more than two axles shall be permitted to be parked or stored for a period in excess of twelve (12) hours in residential section of Westgate, without prior written permission of the Association, whose approval will be issued at its sole and absolute discretion.

2. No livestock, domestic or wild animals, nor plants or crops shall be raised on any Homesite, for the purpose of selling same, whether for profit or not. Exchange of

such animals, plants or produce for anything of value to the seller shall constitute a sale of the merchandise and therefore prohibited under this provision.

C. Other Uses - Potential for Multi-Family and Commercial Use Tracts

The Eligible Property may generally be used for any residential, multi-family, commercial, or retail purposes, unless subject to this Declaration, whereby restricting it to use as set out herein.

D. Placement of Pipelines

No water pipe, gas pipe, sewer pipe, or drainage pipe (except hoses and movable pipes used for irrigation purposes) shall be installed or maintained on any portion of the Property above the surface of the ground, except at the point of connection to the structure served.

E. Parking and Prohibited Vehicles

No motor vehicles or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement, right-of-way, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the ACC.

Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) have current license plates and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) which do not exceed six feet six inches (6'6") in height, or eight feet (8') in width and (e) have no commercial advertising located thereon, may be parked in the driveway on a Lot, [REDACTED]

[REDACTED]. The restriction concerning commercial advertising shall not apply to any vehicles, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity. Overnight parking of any vehicles in the street is prohibited. Owners or occupants of Lots may seek a temporary variance from this restriction for their guests;

however, any such request for a variance must receive the prior approval of the Board.

No more than three (3) vehicles (passenger cars or non-commercial trucks or vans consistent with the residential use of a Homesite) may be parked on the driveway of a Homesite at any time. Such vehicles to be parked on a Homesite must meet the restrictions of this Declaration and at all times be operable, have current license tags, state inspection stickers, and comply with current mandatory insurance under the laws of the State of Texas. All vehicles parked within Westgate shall also be maintained in a manner such that the appearance of the vehicles do not detract from the marketability and appearance of Westgate. No vehicle that cannot physically fit within the designed garage of the Dwelling with the door closed will be construed as a vehicle incident to residential use of a Homesite. Additional rules and regulations for the use and parking on public streets may be promulgated by the Association.

Recreational vehicles, such as mobile homes, campers, and boats are not considered vehicles incident to the residential use of a Homesite and therefore are not permitted to be stored on Homesites for any period of time. A recreational vehicle may be parked in front of or on the Homesite for up to forty-eight (48) hours for loading, unloading and cleaning purposes only.

Parking of any vehicle other than in a driveway of a Homesite or other paved area provided for parking is expressly prohibited.

F. Screening

No Member or occupant of any portion of the Property shall permit the keeping of articles, goods, materials, refuse, trash or garbage containers, air-conditioners, storage tanks, or like equipment in the open, exposed to public view, or exposed to view from adjacent Homesites. All such items must be screened from view and placed in a location first approved in writing by the ARC. Such screen shall be of a height at least equal to that of the materials or equipment being stored, but in no event shall such screen be more than six feet (6') in height. Added screening must also be provided to shield such stored materials and equipment from

view from adjacent Dwellings.

G. Outside Storage and Trash Collection

No equipment, machinery, or materials of any kind or nature shall be stored on any Homesite forward of the fence at the front facade of the house situated thereon, unless the equipment, machinery or materials is being used temporarily (not more than one week) and is incident to repair or construction of the Homesite. All equipment, machinery, and materials shall be properly stored out of sight of every other Homesite immediately after use of such item, and all trash, debris, excess, or unused materials or supplies shall likewise be disposed of immediately off of the Homesite, or stored out of view until trash collection occurs.

Trash may only be placed outside for collection the evening before collection. Such trash must be contained to protect from animals or spillage and trash cans must be removed from sight the same evening of collection.

H. Easements

1. Utilities and General:

There are hereby reserved unto Declarant, so long as the Declarant owns any Property, the Association, and the designees of each (which may include, without limitation, Harris County and any utility) access and maintenance easements upon, across, over, and under all of the Property to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, monitoring and similar systems, roads, walkways, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on Property that Declarant owns or within easements designated for such purposes on recorded plats of the Property. Notwithstanding

anything to the contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling; any damage to a Homesite resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person or entity exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Homesite and, except in an emergency, entry onto any Homesite to exercise or utilize such easement shall be made only after reasonable notice to the Owner or occupant thereof. The items listed above to be replaced, repaired and maintained is not an indication that any of these items exist at present or may exist at any point in the future.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, cable company and natural gas supplier easements across all the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters boxes, installation equipment, service equipment, and any other device, machinery or equipment necessary for the proper functioning of the utility; however, the exercise of this easement shall not extend to unauthorized entry into the Dwelling on any Homesite, except in an emergency. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property, except as may be approved by the Board of Directors or Declarant.

There are wastewater and drainage facilities indicated on the recorded plat for Westgate. Owners hereby agree to hold harmless the Declarant and the Association, and their successors and assigns and release them from any liability for the placement, construction, design, operation, maintenance and replacement of the wastewater and drainage facilities. Owners further grant an easement to the Declarant and the Association for any incidental noise, odors, and/or traffic which

may occur in the normal operation of the wastewater and drainage facilities.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions or all of the Common Area to Harris County, Texas, or to any other similar local, state or federal governmental entity, or to any other entity as the Board deems is in the best interest of the Association.

An underground electric distribution system will be installed in that part of Westgate Subdivision, Section One and Two designated herein as Underground Residential Subdivision, which underground service area embraces a portion of the lots that are platted in Westgate Subdivision, Section One and Two at the execution of this agreement between the electric company and Declarant or thereafter. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad-mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. In the event that there are constructed within the Underground Residential Subdivision structures containing multiple Dwellings such as townhouses, duplexes or apartments, then the underground service area embraces all of the Dwellings involved.

The Owner of each Lot containing a single Dwelling, or in the case of a multiple Dwelling structure, the Owner/Declarant, shall at his/her/its own cost furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric

company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the plat of Westgate or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various Owners reciprocal easements providing for access to the area occupied by and centered on the various Owner's service wires to permit installation, repair and maintenance of each Owner's service wires. In addition, the Owner of each Lot containing a single Dwelling, or in the case of a multiple Dwelling structure, the Owner/Declarant, shall at his/her/its own cost furnish, install, own and maintain, a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each Dwelling involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Dwelling therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Underground Residential Subdivision is being developed for residential Dwellings, including homes, and, if permitted by this Declaration, townhouses, duplexes, and apartment structures, all of which are designed to be permanently located where originally constructed (such category of Dwellings expressly to exclude mobile homes), that are built for sale or rent and all of which multiple Dwellings structures are wired so as to provide for separate metering to each Dwelling.

The provisions of the two preceding paragraphs do not apply to any future non-residential development in reserve(s) shown on the plat of Westgate Subdivision.

2. Easements for Flood Water, Drainage, Irrigation, and Common Area Amenities:
Declarant reserves for itself and its successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the Property (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any of the Common Area, (b) to construct, maintain and repair any wall, dam, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall be transferred to the Association at such time as Declarant shall cease to own Property subject to the Declaration, or such earlier time as Declarant may decide, in its sole discretion, and transfer such rights by a written instrument.

There is further reserved, for the benefit of Declarant, the Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Homesites (but not the Dwellings thereon) extending from the line of mean low tide to the line of vegetation of river banks, ponds and streams within the Property, in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Property; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the ponds, streams and wetlands within the Common Areas; (c) to maintain and landscape the slopes and banks pertaining to such rivers, ponds, streams and wetlands; and (d) to enter upon and across such portions of the Property for the purpose of exercising rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other person or entity liable for

damage resulting from flood due to hurricanes, heavy rainfall, or other natural disasters.

3. Easements to Serve Additional Property:

The Declarant and its duly authorized agents, representatives, and employees, as well as its designees, successors, assignees, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of the Eligible Property, whether or not such property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities on the Eligible Property.

Declarant agrees that if an easement is exercised for permanent access to the Eligible Property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors, or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance to any access roadway serving the property. Such agreement shall provide for sharing of costs based on the ratio that the number of Dwellings or Buildings on that portion of the property that is served by the easement and is not made subject to this Declaration bears to the total number of Dwellings and Buildings within the Properties and on such portion of the property.

I. Signs

No sign or emblem of any kind may be kept or placed upon any Lot or Homesite or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot so as to be visible from public view except the following.

- (1.) For Sale Signs. An Owner may erect one (1) sign on his Lot, not exceeding 2'x3' in area, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of such Lot advertising the property for sale.
 - (2.) Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such signs shall not be erected more than thirty (30) days in advance of the election to which they pertain and shall be removed within three (3) days after such election.
 - (3.) School Spirit Signs. Signs containing information about one or more children residing in the dwelling and the school they attend shall be permitted so long as the sign is not more than 36" x 36" and is fastened only to a stake in the ground. There shall be no more than one sign for each child under the age of eighteen (18) residing in the Dwelling, and said signs may not be displayed more than ten (10) days in any calendar month, for more than three (3) months in a calendar year.
 - (4.) Security Signs/Stickers. Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the Dwelling shall be permitted so long as the sign is not more than 8" x 8" or the sticker is no more than 4" x 4". There shall be no more than one sign and no more than four (4) stickers located on the windows or doors. Stickers shall also be permitted upon windows and doors for the "Child Find" program or a similar program sponsored by a local police and/or local fire department.
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All signs within Westgate or subject to the Builder and/or Architectural Guidelines and Bulletins promulgated by the ARC.

A Builder and/or the Declarant may place certain information and advertising signs on Lots without the prior permission of the ARC, so long as such signs are similar to those listed as acceptable for the

Builder use in the Builder and/or Architectural Guidelines and Bulletins promulgated by the ARC and so long as such signs do not otherwise violate this Declaration.

No sign will be permitted on any Lot owned by an Owner, as opposed to a Builder, within Westgate without the prior written permission of the ARC.

If any sign is placed within Westgate in violation of this Declaration, the Association or its agents shall be authorized to enter upon any Lot or Homesite and remove and/or dispose of any such sign violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal not in any way shall the Association or its agent be liable for any accounting or other claim for such action.

All signs within the subdivision are subject to the Builder and/or Architectural Guidelines and Bulletins promulgated by the ARC.

J. Natural Resources

Except for areas specifically designated for such purposes by the ARC, no portion of the Property shall be used for mining, boring, quarrying, drilling, removal or other exploitation of surface or subsurface natural resources.

K. Reservation of Minerals

The Property and any future land made subject to this Declaration are hereby subjected to

the following reservation and exception: Declarant hereby reserves unto itself and its successors, assigns and predecessors in title in accordance with their respective interests of record all oil, gas and other minerals in, on and under said land, but Declarant on behalf of itself and its successors, assigns and predecessors in title hereby waives the right to use the surface of the land, other than that land or easements owned by Declarant or other owners of oil, gas or other minerals for exploring, drilling for, producing and mining oil, gas and other minerals, provided that Declarant hereby retains and reserves the right on behalf of itself and its successors, assigns and predecessors in title to pool the land with other lands for development of oil, gas and other minerals and the right to drill under and through the subsurface of the land below the depth of one hundred feet (100') by means of wells located on the surface of land or easements owned by Declarant or other owners of oil, gas or other minerals. Such exceptions, retained rights and reservations shall inure to the benefit of Declarant, its predecessors in title and their respective successors and assigns in accordance with their respective interest of record.

L. Common Areas

The Association, subject to the rights of the Members and Owners set forth in this Declaration any amendments or Supplemental Restrictions, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon and shall keep it in good, clean, attractive and sanitary condition. No Member or Owner may appropriate any portion of the Common Areas or any improvement thereon for his or her own exclusive use. Any Member or his or her guests, family or invitees that causes damage to the Common Area shall be financially responsible for said damage. The cost of repair, if not timely paid by the Member (within thirty (30) days) shall be assessed against the Member's Building Site, Homesite, or Unit and secured by the continuous lien set forth in Article XIII, Section A of this Declaration.

M. Window Treatments

Within three (3) months of occupying a Dwelling on any Homesite, an Owner shall install appropriate window treatments in keeping with the aesthetics of the Neighborhood. Appropriate window treatments would include, by way of illustration, curtains, and draperies with backing material of white, light beige, cream, light tan, or light grey); blinds or miniblinds of the same colors or natural stained wood; and/or shutters of the same colors or natural stained wood. No other window treatment color may be visible from the exterior of the Dwelling. All of these window treatments or coverings are subject to the approval of the ARC and all Builder and/or Architectural Guidelines that it promulgates and may change from time to time, as found necessary and appropriate in its sole discretion.

Expressly prohibited both before and after the initial three (3) months of occupancy are any temporary or disposable coverings not consistent with the aesthetics of the Neighborhood, such as reflective materials, sheets, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made for or commonly used by the general public for permanent window coverings in a residential subdivision of the same caliber as Westgate.

N. Deed Restriction Enforcement

1. Authority to Promulgate Rules and Regulations:

The Board of Directors has the authority to promulgate reasonable rules and regulations concerning enforcement of the covenants and restrictions contained in this Declaration, any supplemental restrictions and/or amendments concerning the use of Common Areas and Limited Common Areas.

2. Attorney's Fees and Fines:

In addition to all other remedies that may be available, the Association has the right

to collect attorney fees and/or fines as set by the Board from any Owner that is in violation of this Declaration, any applicable Supplemental Restrictions or amendments, any Architectural Guidelines, the Builder Guidelines, or any other rule or regulation promulgated by the Association.

3. Remedies:

Every Owner shall comply with all provisions of this Declaration, the By-Laws, and the rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Owner or Owners. In addition, the Association may avail itself of any and all remedies provided in this Declaration, any amendment, Supplemental Restriction, or the By-Laws.

O. Antennas

No exterior antennas, aerials, satellite dishes larger than one (1) meter in diameter, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed or maintained upon any portion of the Property, including any Homesite, which is visible from any street, common area or other Lot. The Declarant and/or the Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Property. No satellite dishes shall be permitted which are larger than one (1) meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. Notwithstanding anything contained herein to the contrary, in the event reception of television, radio, satellite, or other signals is not possible due to the location of

the antenna or other apparatus, the ARC may agree to relocate such apparatus to another location for the purpose of enhancing the reception of such signals.

P. General Nuisances

No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, animal, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding Homesites or Recreational Sites.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Property. There shall not be maintained any plants, animals, device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Property. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on the Property, unless required by federal, state or local regulation. The use and discharge of firecrackers and other fireworks is prohibited within the Property.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Homesite. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, that might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on

any part of the Property. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

Q. Tree Removal

No trees greater than three (3) caliber inches to be measured at a point six (6) inches above grade shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved by the ARC. In the event of an intentional or unintentional violation of this Section, the violator may be required to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as the Association may determine necessary, in its sole discretion, to mitigate the damage.

R. Animals and Pets

No animals, livestock (including swine of any kind) or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common household pets, not to exceed a total of two (2) pets, may be permitted in a Dwelling. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. No pets are permitted to roam free. If, in the sole discretion of the Association, any pet that may endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Dwellings or Building or the owner of any portion of the Property shall be removed upon request of the Board. If the owner fails to honor such request, the pet may be removed at the direction of the Board. No pets shall be kept, bred,

or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Dwelling be confined on a leash held by a responsible person.

S. Swimming Pools

No above ground swimming pools are permitted. All other swimming pools require architectural approval as set out in Article VIII herein.

T. Out Buildings/Accessory Buildings

No out building and/or accessory building (including, but not limited to sheds, greenhouses, gazebos, play houses, shade trellis) shall be constructed or placed within Westgate without the prior written approval of the Association. The Association shall have the right without the obligation to promulgate rules, regulations and guidelines regarding the size, quality, location and type of these structures.

U. Air and Water Pollution

No use of any portion of the Property will be permitted which emits pollutants into the atmosphere or discharges liquid or solid wastes or other harmful matter onto any land or into any waterway in excess of the requirements of federal, state or local law. No waste or other substance or material of any kind shall be discharged into any private or public sewer serving the Property or any part thereof in violation of applicable laws or regulations. No person shall dump waste or other substances or materials into any waterway on the Property.

V. Fireworks, Firearms, Etc.

The sale or use of fireworks is prohibited on the Property, except by permit granted by the

Association. The use of or discharge of firearms, air rifles or pellet guns on the Property is prohibited except by certified peace officers and by permit granted to individuals by the Association. Hunting of any kind and by any method, including but not limited to firearms, traps, snares, bow and arrows, or manually propelled missiles, is prohibited except by permit granted to individuals by the Association. If such permits are granted, the Association may designate certain areas for these activities, which must be conducted in accordance with all applicable federal, state and local laws.

W. Clothes Drying

No outside clothes line or other outside facility for drying or airing clothes shall be erected, placed or maintained on any Lot if visible from any other Lot, nor shall clothing or household fabric or any other article be hung, dried, or aired on any Lot in the Subdivision in such a way as to be visible from other Lots/street or the Common Area.

X. Flags and Flag Poles

No flag pole of any kind may be kept, placed, or mounted, to any fence or upon any Lot so as to be visible from public view. Flags mounted on a standard size flag pole inserted into a bracket on a house shall be permitted provided that the location and size of any flag shall be as provided in the Architectural or Building Guidelines, but in no case may the size of the flag pole exceed five feet (5") in length. Such bracket-mounted flags shall be of the size and style intended for residential use on holidays and/or special occasions, and shall at all times be maintained and kept in good condition. If any flag pole is placed within the subdivision in violation of this Declaration, the Association or its agents shall be authorized to enter upon any Lot or Homesite and remove and/or dispose of any such flag violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its

agent be liable for any accounting or other claim for such action.

All flags and flag poles within the subdivision are subject to the Builder and/or Architectural Guidelines and Bulletins promulgated by the ARC.

Y. Exterior Lighting

All exterior lighting must first be approved by the Architectural Control Committee.

Z. Air Conditioners

No window, roof or wall type air conditioner that is visible from any street or any other Lot, shall be used, placed or maintained on or in any Dwelling.

AA. Private Utility Lines

All electrical telephone and other utility lines and facilities which are located on a Lot and which are not owned and maintained by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Architectural Control Committee, and shall be maintained at all times by the Owner of the Lot upon which is located.

BB. Wind Generators

No wind generators shall be erected or maintained on any Lot that are visible from any street, Lot or Common Area.

CC. Solar Collectors

No solar collectors shall be installed without the prior written approval of the Architectural Control Committee. Any such installation shall be in harmony with the design of the Dwelling. Solar collectors shall be installed in a location not visible from the public street in front of the Dwelling.

ARTICLE VIII. ARCHITECTURAL RESTRICTIONS.

A. Architectural Review Committee - "ARC"

The initial ARC shall be composed of three individuals designated by Declarant, one of whom may be designated as Representative to act on behalf of the ARC. The Declarant reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. The Declarant shall retain the right of ARC appointment until the earlier of:

1. until the Declarant does not own any of the Eligible Property, or
2. when the Declarant so desires to relinquish all or any of its authority over ARC appointment.

At such time, the Board of Directors of the Association shall have the right to replace such ARC members by duly electing Owners in good standing with the Association. The Board of Directors reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity.

The Board of Directors shall have the right to review any action or non-action taken by the ARC and shall be the final authority.

B. ARC Approval Required

No buildings, additions, modifications or improvements shall be erected, placed or performed on any Homesite until the construction plans and specifications including, but not limited to, the site plan, design development plan, exterior plan, signage plan, landscaping plan, and lighting plan have been submitted in duplicate to and approved in writing by the ARC as hereinafter provided. The ARC or Board of Directors may, at their sole discretion, retain and/or delegate review of plans and specifications to a designated AIA architect experienced and qualified to review same, who may then render an opinion to the ARC or Board of Directors. Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the design of the improvement or the ultimate construction thereof. In the event the ARC fails to approve such plans and specifications within thirty (30) days after the receipt thereof, they shall be deemed to be disapproved. The ARC or its assignee, at its sole discretion and to the extent wherein not expressly prohibited by this Declaration and any amended or Supplemental Restriction, is hereby permitted to approve in writing deviations in the general use restrictions set forth in Article VII in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. The approval of a deviation in the general use restrictions by the ARC does not obligate the ARC to approve a similar deviation at a later time. Notwithstanding any other provision contained herein, any Dwellings, additions, or improvements erected or placed on any Homesite shall be deemed to comply with the building requirements of the ARC and related covenants contained in the Declaration unless the ARC so notified the Owner in writing within four (4) years from the completion thereof. This provision, however, shall not be deemed a waiver of the right of the ARC or Declarant to enforce the continuing restriction of use contained herein.

The ARC shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Property, where such actions constitute a violation of the Declaration, the Builder Guidelines or any other documents promulgated by the ARC. The violating Owner shall remove such violating

improvements or sitework at its sole expense and without delay, returning same to its original condition or bringing the Homesite into compliance with the Declaration, ARC documents and any plans and specifications approved by the ARC for construction on that Homesite. If an Owner proceeds with construction that is not approved by the ARC, or that is a variance of the approved plans, the Association may assess fines as provided in Article XVI, Section F and may continue to assess such fines until ARC approval is granted or the violation is removed. This Declaration is notice of such liability for violation and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time or loss of business involved.

Written notice may be delivered to Owner or any agent or contractor with apparent authority to accept same and notice shall be binding on Owner as if actually delivered to Owner.

The ARC or its agents or assigns shall have the right, but not the obligation, to enter the Property to determine if violations of this Declaration, the Builder Guidelines, or any other documents promulgated by the ARC exist.

The ARC shall have the right to set time constraints for both the commencement and completion of construction. If construction fails to start before the designated commencement date or is completed before the designated completion date the plans shall be deemed not approved.

The ARC has the right to charge a review fee, to be established by the Board of Directors, for review of any plans or specifications submitted for approval to the ARC.

C. Building Setbacks

No Dwelling or other structure shall be erected nearer to any street or property line than that allowed by the applicable plat or other recorded documents unless first approved in writing

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by the ARC. Driveways shall be permitted to be placed within a setback as approved by the ARC. Before the construction of any residence is complete, the Builder shall construct in all adjacent street rights-of-way a concrete sidewalk four feet (4') in width, parallel to the street curb and two feet (2') from the Lot line in accordance with local standards and ordinances, The sidewalk shall extend the full width of the Lot. On corner Lots, the sidewalk shall extend the full width and depth of the Lot and up to the street curb at the other, and finished with the complement of required curb ramps. The maintenance of all sidewalks is the responsibility of the Owner.

D. Landscaping

All open, unpaved space in a Homesite, including but not limited to front, side, and rear building setback areas, shall be planted and landscaped. Landscaping in accordance with the plans approved by the ARC must be installed prior to occupancy of any Dwelling constructed on the Property.

Any significant changes in the existing landscaping on any Homesite must have written approval from the ARC.

E. Grading and Drainage

Topography of each and every Homesite must be maintained with proper grading and drainage systems such that runoff of water (rain or other precipitation, or manmade irrigation) does not cause undue erosion of the subject Homesite itself or any other Homesites, whether adjacent to the subject Homesite or not. Owners causing (either directly or indirectly) erosion or other incident damage to personal or real property due to inadequate or defective grading or drainage measures on their own Homesite, or because of excess runoff caused by their own irrigation system, shall be liable to all such damaged parties for the replacement, repair and/or restoration of such damaged real or personal property.

Owner shall be responsible for ensuring that all local, state and federal rules and regulations regarding drainage and run-off are met.

F. Temporary Structures

Temporary Structures may only be erected on undeveloped Property by Builders or the Declarant with the written prior approval of the ARC. Even temporary structures shall be in accordance with any applicable provisions of Architectural Guidelines promulgated by the ARC; time limitations for such structures are limited to the period of active and exclusive construction and sales within Westgate.

ARTICLE IX. MAINTENANCE.

A. General Maintenance

Each Owner shall maintain and keep in good repair his or her Dwelling and all structures, parking areas and other improvements comprising the Homesite. All structures and other improvements designed to be painted must be kept painted and the paint may not be allowed to become faded, cracked, flaked or damaged in any manner. Grass, vegetation and weeds on each Homesite shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. Grass growing onto or over sidewalks, driveways, and curbs shall be presumed to be unattractive.

B. Landscaping

In the event any Owner of any Homesite within the Property fails to maintain the landscaping grass or vegetation of a Homesite in a manner satisfactory to the Board of Directors of the Association, the Association, after ten (10) days' notice to the Owners of the

Homesite setting forth the action intended to be taken by the Association and after approval by a two-thirds (2/3) vote of the Board of Directors, shall have the right but not the obligation, through its agent, contractors and/or employees, to enter upon said Homesite or Building Site and to maintain, cut, trim and/or restore such landscaping, grass or vegetation.

C. Dwelling Exterior

In the event any Owner of any Homesite fails to maintain the exterior of the Homesite, including the exterior of the Dwelling or other structures and the parking areas, in a manner satisfactory to the Board of Directors of the Association, the Association, after thirty (30) days' notice to the Owner of the Homesite setting forth the action intended to be taken by the association and after approved by a two-thirds (2/3) vote of the Board of Directors, shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter upon said Homesite and to repair, maintain, or restore the exterior of the Dwelling, other structure or parking areas.

D. Other Hazards

To the extent necessary to prevent rat infestation, diminish fire hazards and/or diminish hazards caused by structural damage, the Association shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter any unoccupied Dwelling, or other improvement located upon such Homesite without notice to take the action necessary to prevent such rat infestation, diminish such fire hazards or diminish hazards caused by structural damage.

E. Liability, Cost and Approval

Neither the Association nor its agents, contractors, or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance or other work authorized in this Section. The cost of such exterior maintenance, interior hazard diminution and other work shall be the personal obligation of the Owner of the Homesite on which it was performed and shall become part of the assessment payable by the Owner and secured by the lien retained in the Declaration. Alternately, the Association or any Owner of a Homesite may bring an action at law or in equity to cause the Owner to bring said Homesite into compliance with these restrictions.

All Members' replacement, repair and restoration practices as to the improvements on Property within Westgate are subject to the prior approval of the ARC and must comply with all Builder and/or Architectural Guidelines which may change from time to time, as found necessary and appropriate in its sole discretion.

ARTICLE X. STANDARDS AND PROCEDURES.

The ARC may establish and promulgate the Builder Guidelines, which the ARC may modify or amend as it deems necessary and appropriate for the orderly development of the Property and Westgate, including, but not limited to, those portions of the Builder Guidelines regarding workmanship, materials, building methods, observance of requirements concerning installation and maintenance of public utility facilities and services, and compliance with governmental regulations. The Builder Guidelines may be amended by the ARC without notice, but they shall not be applied retroactively to reverse a prior approval granted by the ARC or the Association to any Owner or prospective purchaser of any Homesite. The rules, standards, and procedures set forth in the Builder Guidelines, as same may be amended from time to time, shall be binding and enforceable against each Owner in the same manner and any other restriction set forth in this Declaration.

ARTICLE XI. VARIANCES.

The Board, upon the recommendation of the ARC, may authorize variances from compliance with any of the architectural provisions of this Declaration, any amendment, Supplemental Restriction, Builder Guideline, or Architectural Guidelines, unless specifically prohibited, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least a majority of the Board, and shall become effective upon execution of the variances. If such variances are granted, no violation of the covenants, conditions, or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulation.

No granting of a variance shall be relied on by any Member or Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any provision of this Declaration. Action of the ARC or Board of Directors in granting or denying a variance is a decision based expressly on one unique set of circumstances and need not be duplicated for any other request by any party or the same party for any reason whatsoever.

ARTICLE XII. LIMITATION OF LIABILITY.

NEITHER DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD, NOR ANY OF THE RESPECTIVE OFFICERS, PARTNERS, DIRECTORS, MEMBERS, SUCCESSORS OR ASSIGNS OF THE ABOVE, SHALL BE LIABLE IN DAMAGES OR OTHERWISE TO ANYONE WHO SUBMITS MATTERS FOR APPROVAL TO ANY OF THE ABOVE-MENTIONED PARTIES, OR TO ANY OWNER AFFECTED BY THIS DECLARATION BY REASON OF MISTAKE OF JUDGMENT, NEGLIGENCE,

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MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY MATTERS REQUIRING APPROVAL HEREUNDER. APPROVAL BY THE ARC, THE BOARD, OR THE ASSOCIATION, NOR ANY OF ITS RESPECTIVE OFFICERS, PARTNERS, DIRECTORS, MEMBERS, SUCCESSORS OR ASSIGNS, IS NOT INTENDED AS ANY KIND OF WARRANTY OR GUARANTEE AS TO THE INTEGRITY OR WORKABILITY OF THE PLANS NOR THE CONTRACTORS USED.

ARTICLE XIII. ASSESSMENTS.

A. Creation of the Lien and Personal Obligation of Assessments

The Owners of any Lot or Homesite, by virtue of Ownership of Property within Westgate, covenants and agrees to pay to the Association:

1. Annual Assessments, and
2. Special Assessments

The Annual and Special Assessments together with late charges, attorney's fees, interest and costs shall be a charge and continuing lien upon the Homesite and Lot against which each such assessment is made. Each such assessment, together with late charges, attorney's fees, interest and costs, shall also be the personal obligation of the person or entity who was the Owner of the land at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

B. Purpose of Assessments

Annual and Special Assessments levied by the Association shall be used for any legal purpose for the benefit of all Owners as determined by the Association and, in particular, may by way of example and not limitation or obligation include maintenance, repair or improvement of any Common Area, parkways, private streets and roads, esplanades, setbacks and entryways, police and patrol service, fire protection, emergency medical service, street cleaning, street lighting, mosquito control, other services as may be in the Property's and Owner's interest and for promotion of the recreational interests of the Members. Parkway, streets, roads, esplanades, setbacks and entryways that are not contained in any Common Area may be included in the Association's maintenance if, in the sole discretion of the Board, the maintenance of such areas benefits the Association's Members. It shall be the obligation of the Association to use the maintenance assessments levied upon the Owners to pay for the maintenance of any boulevard and/or boulevard areas running through the golf course and joining one section of the Property to another section of the Property. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or resident associations, both within and without the Properties. Such agreements shall require the consent to a majority of the total number of directors of the Association.

Additionally, assessments levied by the Association may be used, in the sole discretion of the Association to pay its fair allocation of maintenance costs for its participation in any agreement among other property Owners associations, (whether residential, multi-family, commercial or mixed use) in the area, for consolidated programs that provide consistency and economies of scale. Approval to enter such agreements shall require a majority vote of the Board.

C. Annual Assessment

The Property shall be subject to the Annual Assessment, as follows:

1. Creation:

Payment of the Annual Assessment shall be the obligation of each Owner and shall constitute a lien on the Homesite, or Lot(s), binding and enforceable as provided in this Declaration.

2. Rate:

The initial Annual Assessment established by the Association shall not exceed FOUR HUNDRED AND 00/100 DOLLARS (\$400.00) per Lot for Residential Property. If Property is platted and is owned by the Declarant or has been purchased by a Builder but has not yet been developed as such, the Property shall be assessed at fifty percent (50%) of the normal annual assessment that would be owed if the Property had been developed and sold to a buyer. Upon purchase from a Builder, the new Owner shall owe a prorated amount as described under paragraph 4 of this Section. Notwithstanding anything contained in this Section 2 to the contrary, if the Property is platted and is owned by the Declarant, the Declarant may at its option pay the lesser of (a) 50% of the normal assessment that would be owed if the Property had been developed and sold to a Buyer; or (b) the actual costs to satisfy the purpose of the Assessment described in Article XIII.B. as determined by the Board.

3. Commencement:

For purposes of calculation, the initial Annual Assessment shall commence on the first day of the first month following the date of the first sale of a Lot to a party other than Declarant. Annual Assessments shall be due in advance on January 1 for the coming year and shall be delinquent if not paid in full as of January 31 of each year.

4. Proration:

An Owner's initial Annual Assessment shall be made for the balance of the calendar year as determined on a pro-rata basis and shall become due and payable on the commencement date described above. The Annual Assessment for any year after the first year shall be due and payable on the first day of January.

5. Levying of the Assessment:

The Annual Assessment shall be levied at the sole discretion of the Board. The Board shall determine the sufficiency or insufficiency of the then current Annual Assessment to reasonably meet the expenses for providing services and capital improvements in Westgate and may, at its sole discretion and without a vote by the Members, increase or decrease the Annual Assessment in an amount up to twenty percent (20%) over or under the previous year's Annual Assessment. The Annual Assessment may only be increased by more than twenty percent (20%) over the preceding year's assessment if such increase is approved by Members in good standing who represent a majority of the votes in Westgate present at a meeting called for said purpose at which a quorum is present in person or by proxy. The Annual Assessment shall not be adjusted more than once in a calendar year nor shall any increase be construed to take effect retroactively, unless otherwise approved by Members representing a majority of the votes subject to such assessments present at a meeting called for said purpose at which a quorum is present in person or by proxy.

D. Special Assessments for Capital Improvements

In addition to the Annual Assessments authorized above, the Association may levy 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 in the Common Area or any unusual, infrequent expense benefitting the Association, provided that any such assessment shall have the approval of the Class A Members in good standing

who represent a majority of the votes in Westgate present at a meeting called for said purpose at which a quorum is present in person or by proxy and Class B Members at a meeting duly called for this purpose. Such Special Assessments will be due and payable as set forth in the resolution authorizing such assessment and shall be levied only against those Owners subject to the Annual Assessment as set forth in Section C hereof and shall be pro rated in accordance therewith. The Association, if it so chooses, may levy a Special Assessment against only those Members benefitted by or using the capital improvement for which the Special Assessment is being levied. Special Assessments shall be due upon presentment of an invoice, or copy thereof, for the same to the last known address of the Owner.

E. Collection and Remedies for Assessments

1. The assessments provided for in this Declaration, together with late charges, attorneys' fees, interest and costs as necessary for collection, shall be a charge on and a continuing lien upon the land against which each such assessment is made. Each such assessment, together with late charges, attorney's fees, interest and costs, shall also be the personal obligation of the Owner of the land at the time the assessment became due. This personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.
2. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by reason of non-use or abandonment.
3. In order to secure the payment of the assessments hereby levied, an assessment lien

is hereby reserved in each deed from the Declarant to the Owner of each parcel of Property in Westgate, which lien may be foreclosed upon by non-judicial foreclosure pursuant to the provisions of Section 51.002 of the Texas Property Code (or any successor statute); each Owner grants a power of sale to the Association to sell such property upon default in payment by any amount owed. Alternatively, the Association may judicially foreclose the lien or maintain an action at law to collect the amount owed.

The President of the Association or his or her designee is hereby appointed Trustee to exercise the Association's power of sale. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct. If the herein named Trustee shall die or become disqualified from acting in the execution of this trust, or shall fail or refuse to execute the same when requested by the Association so to do or if, for any reason, the Association shall prefer to appoint a substitute trustee to act instead of the herein named Trustee, the Association shall have full power to appoint, at any time by written instrument, a substitute trustee, and, if necessary, several substitute trustees in succession, who shall succeed to all the estate, rights, powers and duties of the Trustee named herein and no notice of such appointment need to be given to Owner or to any other person or filed for record in any public office. Such appointment may be executed by any officer of the Association and such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the Board or any superior officer of the Association. The Owner, hereby ratifies and confirms any and all acts that the Trustee or successors in this trust, shall lawfully do by virtue hereof.

Although no further action is required to create or perfect the lien, the Association may, as further evidence give notice of the lien, by executing and recording a document setting forth the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The Association shall also have the right but

not the obligation to notify a delinquent Owner's lender, in writing, of such Owner's delinquency and default.

In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 (or any successor statute) and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale no less than twenty one (21) days prior to the date of the proposed foreclosure sale, postage prepaid, registered or certified mail, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association or by hand delivery. At any foreclosure proceeding, any person or entity, including but not limited to the Declarant, Association or any Owner, shall have the right to bid for such Property at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period Property is owned by the Association following foreclosure, (1) no right to vote shall be exercised on its behalf; (2) no assessment shall be levied on it; and, (3) each other Homesite may be charged, in addition to its usual assessment, its equal pro rata share that would have been charged such Property if it had not been acquired by the Association as a result of foreclosure. Out of the proceeds of such sale, there shall be paid all expenses incurred by the Association in connection with such default, including attorneys' fees and trustee's fees; second, from such proceeds there shall be paid to the Association an amount equal to the amount of assessments in default inclusive of interest, late charges and attorneys' fees; and, third, the remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each occupant of any such tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

F. Exempt Properties

The following are exempt from payment of assessments under this Declaration: schools, churches and recreational facilities and reserves.

All properties dedicated to any accepted use by a municipal county, federal, or other governmental authority and all properties owned by charitable or non-profit organizations that are exempt from taxation by federal laws shall be exempt from the assessments created herein and the Owners thereof shall have no voting rights with respect thereto.

G. Notice of Delinquency

The Association or its agent or designee shall be required to give a written notice of the assessment to any Owner who has not paid an assessment that is due under this Declaration. Such notice must be mailed to the Owner's last known address. The address of the Lot, Homesite or Building Site shall be presumed to be the address for proper notice unless written notice of another address shall be provided to the Association.

ARTICLE XIV. MODIFICATION AND TERMINATION OF COVENANTS

Each restriction and covenant contained in this Declaration may be amended, modified, or terminated by the filing of a recorded instrument executed by the Association or its legal representatives, successors or assigns. So long as Class B membership exists, approval of seventy-five percent (75 %) of the combined total votes of Class A and Class B Membership shall be required to amend, modify or terminate these restrictions and covenants. However, the Declarant may unilaterally amend this Declaration at any time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots and Homesites; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation to enable such lender or purchaser to make or purchase mortgage loans on the Lots or Homesites; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots or Homesites; or (e) necessary to clarify or resolve any ambiguities or conflicts or to correct any inadvertent misstatements, errors or omissions in this Declaration as may be amended from time to

time; provided, however, any such amendment shall not adversely affect the title to any Lots or Homesites unless the Owner shall consent thereto in writing. After the end of the Declarant Control Period, approval of a majority of the Class A membership shall be required to amend, modify or terminate these restrictions and covenants. Upon approval of the Owners, as set out above, and the Association's joinder and approval of said declaration, the declaration shall be signed and acknowledged by the parties thereto and recorded in the Real Property Records of Harris County, Texas, whereupon to the extent of any conflict with this Declaration, this Declaration shall be null and void and the Property thereafter shall be made subject to covenants, conditions, and restrictions set forth in the new declaration.

ARTICLE XV. ALTERNATE DISPUTE RESOLUTION.

A. Dispute Resolution Committee

No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; or the Association. Each individual shall represent himself or herself, or, in the case of Ownership by a business or other entity, such entity shall appoint a representative. The Association shall be represented by a member of the Board of Directors. The Board of Directors shall be represented by an individual designated by the Board of Directors. The dispute shall be brought before the Association's Dispute Resolution Committee for resolution. This non-binding mediation process shall be used for all disputes concerning less than five times the annual assessment for one year for one Lot at the time the mediation is requested. In the event that the parties cannot come to an agreement under this process of mediation by the Dispute Resolution Committee, the parties must submit to mediation under Section B of this Article.

The Dispute Resolution Committee shall consist of three (3) individuals, at least two (2) of whom must be Members, all appointed by the Board of Directors of the Association. The

Board shall maintain, if possible, a list of no less than twenty (20) volunteer Members in good standing willing to serve on such committee. All such volunteers shall be required to attend a training session before being eligible to actually serve on the Dispute Resolution Committee.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

Notwithstanding anything contained in this Section A to the contrary, the Board of Directors may in its sole discretion elect to either by-pass this Section A and submit any dispute to an outside mediator as provided in Section B of this Article, or to by-pass this Article XV and submit any dispute to a court of law.

B. Outside Mediator

If a dispute between any of the above entities or individuals concerns more than five times the Annual Assessment for one year for one Lot at the time the mediation is requested, or if the parties cannot reach agreement under Section A of this Article, or if the Board of Directors elect to by-pass Section A of this Article, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager ("P.C.A.M.") as certified by the Community Associations Institute, or a Certified Property Manager ("C.P.M.") as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in Westgate, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the

parties. The Board shall maintain a list of no less than ten (10) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

C. Mediation is Not a Waiver

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.

D. Assessment Collection

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of assessments by the Association as set out in the Declaration.

E. Term

This Article XV, Alternative Dispute Resolution, shall be in full force and effect for an initial period of three (3) years from the date of execution of this Declaration. However, this Article shall remain in full force and effect unless, at the first open meeting of the Association after such initial period, a majority of quorum of the Class A Members or the Board of Directors votes to terminate the provisions of this Article XV, Alternative Dispute Resolution.

ARTICLE XVI. GENERAL PROVISIONS.

A. Severability

The invalidity of any one or more of the provisions of this Declaration shall not affect the validity of the other provisions thereof.

B. Compliance with Laws

At all times, each Owner shall comply with all applicable federal, state, county, and municipal laws, ordinances, rules, and regulations with respect to the use, occupancy, and condition of the Property and any improvements thereon. If any provision contained in this Declaration or any supplemental declaration or amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

C. Gender and Number

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

D. Headlines

The titles and captions for this Declaration and the sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

E. Governing Law

The provisions in this Declaration shall be governed by and enforced in accordance with the laws of the State of Texas. Any and all obligations performable hereunder are to be performed in Harris County, Texas.

F. Fines for Violations

The Association may assess fines for violations of the restrictive covenants contained in this Declaration, other than non-payment or delinquency in assessments, in amounts to be set by the Board of Directors, which fines shall be secured by the continuing assessment lien set out in this Declaration.

G. Books and Records

The books, records and papers of the Association shall by appointment, during normal business hours, be subject to inspection by any Member. The Articles of Incorporation, By-Laws, and this Declaration shall likewise be available for inspection, by appointment during normal business hours by any Member at the office of the Association.

H. Notices

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

I. Mergers

Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, the Association's properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer any restrictions together with any Declarations of Covenants, Conditions and

Restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

J. Current Address

Owners are required to notify the Association of their current address at all times. If an Owner fails to notify the Association of their current address, the Association shall use the address of the Lot or Homesite as the current address.

K. Security

NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, DECLARANT OR ANY SUCCESSOR DECLARANT DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, IMPROVEMENTS UPON LOTS

AND THE CONTENTS OF SUCH IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

L. Subordination of the Lien to First Mortgages

The lien of assessments, including interest, late charges, costs and attorneys' fees, provided for herein shall be subordinate to the lien of any first mortgage on any Lot or Homesite. The sale or transfer of any Lot or Homesite shall not affect the assessment lien. However, the sale or transfer shall relieve such Lot or Homesite from lien rights for all assessments thereafter becoming due. Where the mortgage holding a first mortgage of record or other purchaser of a Lot or Homesite obtains title pursuant to judicial or non-judicial foreclosure of the mortgage, it shall not be liable for the share of the assessments or other charges by the Association charitable to such Lot or Homesite that became due prior to such acquisition of title. Such unpaid assessments and/or other charges shall be deemed to be common expenses collectible from Owners of all the Lots and Homesites, including such acquirer, its successors and assigns.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has executed the forgoing instrument on this 10th day of June, 1999.

529 PARTNERS, LTD., a Texas limited partnership

By: Lot Development, Inc., a Texas corporation,
General Partner

By: Anthony L. Levinson
Name: Anthony L. Levinson
Title: President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me this the 10th day of June, 1999, by Anthony L. Levinson, in his capacity as President of Lot Development, Inc., a Texas corporation in its capacity as the general partner of 529 Partners, Ltd., a Texas limited partnership.

Linda C. Seabourne
Notary Public, State of Texas



LIENHOLDER CONSENT AND SUBORDINATION

Scout Development Corporation, a Missouri Corporation, being the sole beneficiary of a mortgage lien and other liens, assignments and security interests encumbering all or a portion of the Property hereby consents to the terms and provisions of this Declaration of Covenants, Conditions, Restrictions and Easements for Westgate to which this Lienholder Consent and Subordination is attached and acknowledges that the execution thereof does not constitute a default under the lien document or any other document executed in connection with or as security for the indebtedness above described, and subordinates the liens of the lien document and any other liens and/or security instruments securing said indebtedness to the rights and interests created under said Declaration, and acknowledges and agrees that a foreclosure of said liens and/or security interests shall not extinguish the rights, obligations and interests created under this Declaration. No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

SCOUT DEVELOPMENT CORPORATION,
a Missouri Corporation

By: Anthony L. Levinson
Name: ANTHONY L. LEVINSON
Title: EXECUTIVE VICE PRESIDENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me this the 10th day of June, 1999, by Anthony L. Levinson, in his capacity as Exec. V. President of Scout Development Corporation, a Missouri Corporation, on behalf of such corporation.

Linda C. Seabourne
Notary Public, State of Texas

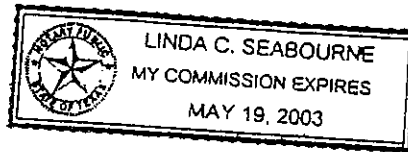


Exhibit "A"

Property

All of Westgate Section One, an addition in Harris County, Texas according to the map or plat thereof recorded in Film Code No. 416134 of the Map Records of Harris County, Texas; and

All of Westgate Section Two, an addition in Harris County, Texas according to the map or plat thereof recorded in Film Code No. 416140 of the Map Records of Harris County, Texas.

Please Record and Return to:

**John R. Jones
Chevron Tower
1301 McKinney, Suite 3550
Houston, TX 77010**

Harris County
Beverly B. Kaufman
County Clerk

06/14/99 300286186 \$117.00
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