

Declarations-CC&Rs
Brentwood Villas POA

U795902

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THE BRENTWOOD VILLAS
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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This Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration") is made this 15th day of May, 2000, by Norstone, Ltd., a Texas limited partnership ("Norstone").

PREAMBLE

Norstone is the owner and developer of The Park at Brentwood, a replat of 6 lots in Liveoaks, a subdivision in Harris County, Texas, according to the map or plat thereof filed at Film Code No. 433139 of the Map Records of Harris County, Texas and herein referred to as "Brentwood Villas." Norstone proposes to establish and implement highly sophisticated plans for Brentwood Villas, for residential living. The purposes of this Declaration are to: protect Declarant (and its successors and assigns as set forth below) and the Owners (as defined below) against the improper development and use of Lots (as defined below) within Brentwood Villas; provide for landscaping and the maintenance thereof; provide for the maintenance and use of certain common properties; establish rules and regulations for the Subdivision, establish and enforce architectural design guidelines, standards and criteria to achieve an aesthetically pleasing environment; and in general to encourage construction of attractive, permanent single-family townhomes of the highest quality that will promote the general welfare of Declarant (and its successors and assigns as set forth below) and the Owners.

This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code. Ann., Sections 82.001-82.164 (Vernon 1994).

ARTICLE I

DEFINITIONS

The following terms, when used in this Declaration or any amended or supplementary Declaration (unless the context shall otherwise clearly indicate or prohibit) shall have the following respective definitions:

"Association" shall mean and refer to the entity which will have the power, duty and responsibility of maintaining and administering the Common Properties and administering and enforcing this Declaration and collecting and disbursing the assessments and charges hereinafter prescribed. The Association has been chartered as a non-profit Texas corporation under the name of "Brentwood Villas Property Owners' Association, Inc." for the purposes set forth herein.

"Board of Directors" shall mean and refer to the body charged with managing the affairs of the Association.

"Common Maintenance Areas" shall mean the Common Properties and all areas of a Lot between the front facade of a residence and the street.

"Common Properties" shall mean and refer to any property within Brentwood Villas designated as common green, common areas, landscape reserves, or private streets on any recorded plat of Brentwood Villas with any and all Improvements that are now or may hereafter be constructed thereon. The Common Properties on the date of this Declaration consist of private streets, landscape and perimeter fences and walls. Norstone

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reserves the right to effect redesigns or reconfigurations or deletions of the Common Properties during the Development Period by any means including, without limitation, any amendatory plat or replat of all or any portion of Brentwood Villas. The Common Properties do not include sewer, water and other utility systems unless they serve more than one Lot and are not dedicated to or owned by the supplier of the utility service.

"Declarant" shall mean and refer to collectively, Norstone and its successors and assigns provided any such successor or assign is so appointed in writing by the Declarant or any such successor or assign.

"Design Guidelines" shall mean and refer to those particular standards, restrictions, guidelines, recommendations, and specifications applicable to architecture, design, construction, placement, location, alteration, and maintenance of any Improvements of any nature whatsoever and also include landscaping to or within Brentwood Villas, and all amendments, bulletins, modifications, supplements, and interpretations thereof.

"Development Period" shall mean and refer to the period ending when Residences complying with the Declaration and Design Guidelines have been constructed on all Lots and have been initially occupied by Residents, as determined by Norstone, or any earlier date designated in writing by Norstone as the ending date for the Development Period.

"Improvements" shall mean and refer to any buildings, structures, underground installations, slope alterations, lights, driveways, utility facilities and lines, parking areas, fences, satellite dishes, rooftop installations, screening walls and barriers, retaining walls, stairs, decks, windbreaks, plantings, planted trees and shrubs, statues or sculptures, poles, signs, flatwork, loading areas and all other structures, landscaping, or improvements of every type and kind.

"Lot" shall mean and refer to each subdivided lot which is designated in the Subdivision Plat, together with all Improvements thereon.

"Member" shall mean and refer to a member of the Association, whether a Resident Member or Norstone.

"Owner" shall mean and refer to each and every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot; however, the word "Owner" shall not include person(s) or entity(ies) who hold a bona fide lien or interest in a Lot as security for the performance of an obligation.

"Residence" shall mean and refer to those portions of each Lot that are improved with a residence and a garage.

"Resident" shall mean and refer to (i) each Owner residing in his Residence; and (ii) each person residing in a Residence who is a bona fide lessee of the Owner of such Residence, subject to the provisions of Section 2 of Article IX; and (iii) each person lawfully domiciled in a Residence other than an Owner or bona fide lessee.

"Single Family Unit" shall mean a structure intended for residential use which does not share a common wall with another Residence.

"Subdivision Plat" shall mean and refer to the map or plat of The Park at Brentwood and any amendments or replats that are applied for by the Declarant, approved by applicable local authorities and filed in the appropriate real property records. The Subdivision Plat as of the date of this Declaration is filed as Film Code No. 433139 of the Map Records of Harris County, Texas.

"Townhome Unit" shall mean a structure intended for residential use which shares a common wall with another Residence.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property; Real Covenants. The Lots are and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth. The covenants and restrictions and provisions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of the Owners of the lands subject to this Declaration, their respective legal representatives, heirs, successors and assigns. Property may be omitted from the Declaration by an amendment to this Declaration in accordance with the applicable provisions of this Declaration.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership, Voting and Good Standing. Each Owner other than the Declarant shall, by virtue of ownership of a fee simple interest in a Lot, be a "Resident Member." During the Development Period, the Association shall have two (2) classes of Members: the Resident Members and Norstone. At the ending date of the Development Period, the Norstone Membership shall terminate. Subject to the provisions of Section 3 of this Article III, each Resident Member shall be entitled for each Lot owned by the Resident Member to one (1) vote on each matter with respect to which Members are entitled to vote pursuant to this Declaration or the Bylaws of the Association; provided, however, in no event shall more than one (1) vote be cast with respect to any Lot. If for any Lot there is more than one Owner, the vote for such Lot shall be exercised as such Owners, among themselves, determine, and advise the Secretary of the Association in writing prior to the meeting at which they are to be cast. In the absence of such advice, the vote for such Lot shall be suspended if more than one Resident Member seeks to exercise it. Subject to the provisions of Section 3 of this Article III, Norstone is entitled to one (1) vote for each Lot owned by Norstone on each matter with respect to which Members are entitled to vote pursuant to this Declaration or the Bylaws of the Association.

No Resident Member shall be entitled to exercise any right as a Member at any time he is not a Member in good standing. A Resident Member shall not be in "good standing" if such person or entity is: (a) in violation of any portion of this Declaration, the Design Guidelines, or any rule or regulation promulgated by the Board of Directors; or (b) delinquent in the full, complete and timely payment of any regular assessment, special assessment, or any other fee, charge or fine which is levied, payable or collectible pursuant to the provisions of this Declaration, the Bylaws of the Association, or any rule or regulation promulgated by the Board of Directors.

Section 2. Registration with the Association. Each Owner shall provide to the Association, and thereafter revise and update, the following items of information: (i) the full name and address of the Owner (ii) the business address and telephone numbers of the Owner; (iii) the description and license plate number of each automobile owned or used by the Owner and brought within Brentwood Villas; and (iv) the name, address and telephone numbers of other individuals who can be contacted (in the event the Owners cannot be located) in case of an emergency.

Section 3. Number, Term and Election of Directors. Directors shall be elected for two (2) year terms of office and shall serve until their respective successors are elected and qualified. Notwithstanding the following provisions relating to the change in number of Director's positions for which classes of Members are entitled to vote, no Director's term of office shall be reduced by any such change in the Board of Directors.

At the annual meeting of Members next succeeding the end of the Development Period and at all annual meetings thereafter, all Directors shall be elected by Resident Members. Prior to such time the Board of Directors shall be appointed by Norstone.

Any vacancy which occurs in the Board of Directors by reason of death, resignation, removal, or otherwise, may be filled at any meeting of the Board of Directors by the affirmative vote of a majority of the remaining Directors representing the same Class of Members who elected the Director whose position has become vacant. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose position he or she was elected to fill. No Director need be a Member of the Association.

The election of the Directors shall take place in accordance with the Bylaws of the Association and, to the extent not inconsistent with the Bylaws of the Association, the directives of the then-existing Board of Directors. The Board of Directors may make such rules and regulations consistent with the terms of this Declaration and the Bylaws of the Association as it deems advisable, for any meeting of Members, proof of membership in the Association, the status of good standing, evidence of right to vote, the appointment and duties of examiners and inspectors of votes, the procedures for actual voting in person or by proxy, registration of Members for voting purposes, and such other matters concerning the conduct of meetings and voting as the Board of Directors shall deem fit.

Section 4. Notice and Voting Procedures. Quorum, notice and voting requirements of and pertaining to the Association may be set forth in the Articles and the Bylaws of the Association, as either or both may be amended from time to time. Unless clearly inconsistent with the terms and provisions of the Articles of the Association and Bylaws of the Association, the Board of Directors may adopt and promulgate such other and further procedures as it may deem appropriate to fairly carry out the spirit and intention of this Declaration without undue cost, expense or inconvenience. The Board of Directors is authorized to employ in its notice and voting procedures whatever devices and procedures become available from time to time as a result of technological advances and improvement in communications.

ARTICLE IV

**GENERAL POWERS AND DUTIES OF THE
BOARD OF DIRECTORS OF THE ASSOCIATION**

Section 1. Powers and Duties. The Association, acting by and through the Board of Directors, shall have all the powers necessary or appropriate to manage the property, business, and affairs of the Association and to exercise all rights, duties, and privileges granted to the Association under this Declaration including, without limitation, the powers described below:

- (a) To select and remove all officers, agents and employees of the Association; prescribe such powers and duties for them to the full extent permitted by law and consistent with the Bylaws of the Association and this Declaration;
- (b) To acquire, sell, dispose, pledge, mortgage, exchange, or make any other disposition of real or personal property;
- (c) To determine, fix and collect Assessments and other amounts collectible under the Declaration;
- (d) To enter into agreements or contracts with insurance companies, taxing authorities, the holders of mortgage liens on the individual Lots and utility companies with respect to: (i) any taxes on the Common Properties owned by the Association (that is, to which the Association holds legal title); (ii) insurance coverage (if any) on Common Properties, owned by the Association as either or both relate to the assessment, collection and disbursement process envisioned by Article VI; and (iii) utility installation, consumption and service matters;
- (e) To borrow funds (including without limitation, the borrowing of funds from the Declarant and/or its affiliates) to pay costs of operation, secured by such assets of the Association as deemed appropriate by the Board of Directors;
- (f) To enter into contracts;
- (g) To maintain one or more bank accounts;
- (h) To protect or defend the Common Properties from loss or damage by suit or otherwise and to provide adequate reserves for repairs and replacements;
- (i) To sue or defend in any court of law;
- (j) To make reasonable rules and regulations for the operation of the Common Properties and the Association and maintenance of the Common Maintenance Areas, and to amend them from time to time;
- (k) Pursuant to Article VII herein, to adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency;

(l) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules;

(m) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association; and

(n) To provide and pay for, out of the assessment fund(s) provided for in Article VI below and any other funds of the Association, the following:

(1) Care, preservation and maintenance of the Common Properties and Common Maintenance Areas and the furnishing and upkeep of any desired personal property for use in or on the Common Properties and Common Maintenance Areas;

(2) Maintenance of the exterior areas of Lots and Residences, exterior security lighting and landscaping in Common Maintenance Areas as provided in this Declaration;

(3) Private trash and garbage collection service and community services arrangements;

(4) Taxes, insurance and utilities (including, without limitation, electricity, gas, water and sewer charges) which pertain to the Common Properties only;

(5) Services of any person or firm (including Norstone and any affiliates of Norstone) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board of Directors, and the services of such other personnel as the Board of Directors shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board of Directors or by the manager;

(6) Employment of policemen or watchmen and/or a security service;

(7) Legal and accounting services; and

(8) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes, or assessments which the Board of Directors is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

Section 2. Implied Authority. The Association shall have all rights, privileges, and authority reasonably implied from the existence of any right, privilege, or authority granted to it in this Declaration or the Bylaws of the Association or otherwise reasonably necessary to effectuate any such right, privilege, or authority.

Section 3. Liability Limitations. No Member, Director or officer of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association or for a tort of another Member, Directors, or officers whether such person was acting on behalf of the Association or otherwise. Neither the Declarant, the Association, its Directors, officers, agents, or employees shall be liable for any incidental or consequential damages for failure to inspect

any premises, Improvements or portion thereof or for failure to repair or maintain the same. The Declarant, the Association or any other person, firm or corporation liable to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, Improvements or portion thereof, including, without limitation, any negligent act or omission of the Declarant, the Association or any of its agents, employees or contractors.

Section 4. Reserve Funds. The Board of Directors may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate accounts in order to better demonstrate that the amounts deposited therein are capital contributions and not income to the Association.

Section 5. Merger or Consolidation. Upon any merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions established upon any other properties, as one scheme.

ARTICLE V

PROPERTY RIGHTS IN AND USE OF THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 2 of this Article, every Member shall have a nonexclusive right and easement of use, recreation and enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of each respective Lot. Such easement shall not give such person the right to make alterations, additions or Improvements to the Common Properties.

Section 2. Extent of Members' Easements. The rights and easements of use, recreation and enjoyment created hereby shall be subject to the following:

- (a) The right of Norstone to reconfigure, add or delete properties as Common Properties in the course of Declarant's development of Brentwood Villas or relating to any amendment to the Subdivision Plat;
- (b) The right of the Association to prescribe reasonable regulations and policies governing, and to charge fees and/or deposits related to, the use, operation and maintenance of the Common Properties and Common Maintenance Areas;
- (c) Liens or mortgages placed against all or any portion of the Common Properties by Norstone and, after the Development Period, the Association (but as to the Association only with respect to monies borrowed by the Association to improve or maintain the Common Properties);

(d) The right of the Association to enter into and execute contracts with any party (including, without limitation, the Declarant or its affiliates) for the purpose of providing maintenance or such other materials or services consistent with the purposes of the Association and this Declaration;

(e) The right of Norstone or the Association to take such steps as may be reasonably necessary to protect the Common Properties against foreclosure;

(f) The right of Norstone and, after the Development Period, the Association to enter into and execute contracts with the owner-operators of any community antenna television system ("CATV") or other similar operations for the purpose of extending cable or utility service on, over or under the Common Properties to ultimately provide service to one or more of the Lots;

(g) The right of the Association to improve, landscape, and maintain the Common Properties and the right of Norstone and, after the Development Period, the Association to encumber, mortgage, design, reconfigure, and alter the Common Properties;

(h) The right of the Association to suspend the voting rights of any Resident Member and to suspend the right of any Resident Member to use or enjoy any of the Common Properties for any period during which any assessment (including without limitation "fines") against a Lot resided upon by such Resident Member remains unpaid, and otherwise for any period deemed reasonable by the Association for an infraction of the then-existing rules and regulations and/or architectural guidelines;

(i) The right of Norstone and, after the Development Period, the Association, to dedicate or transfer all or any part of the Common Properties owned by the Association to any municipal corporation, public agency, governmental authority, or utility for such purposes and upon such conditions as may be agreed to by Norstone or Board of Directors, as the case may be; and

(j) The right of the Association to execute any open space declarations applicable to the Common Properties which may be permitted by law in order to reduce property taxes.

Section 3. Rules of the Board of Directors. All Members, Residents, and their families and guests shall abide by any reasonable rules and regulations adopted by the Board of Directors. The Board of Directors shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies.

Section 4. Use of Common Properties. Use of the Common Properties shall be limited to Members, Residents, and their families and guests for the purposes to which the Common Properties are dedicated by Subdivision Plat or otherwise by the Association.

Section 5. Private Streets. The entry, streets, street lighting, parking areas, and sidewalks (if any) within Brentwood Villas are private and constitute a portion of the Common Properties which are subject to the jurisdiction of and administration by the Association. In addition to the other provisions appearing within this Article V, the Board of Directors of the Association is specifically authorized to recommend, adopt, implement, and enforce rules, regulations, mechanisms, and procedures governing use of the entry gatehouse, sidewalks, Lanes, street lighting, postal stations and streets, covering items such as (but not necessarily limited to):

- (a) identification and entry programs for Members, their respective immediate families, their guests, and vehicles owned or driven by any of them;
- (b) designated parking areas, restricted parking areas, and no-parking areas;
- (c) signs and graphics to provide announcements to unauthorized personnel concerning potential criminal trespass matters;
- (d) a "fines" system through which the Association can levy and collect fines from its Members for violations of the applicable rules and regulations; and
- (e) disclaimers of liability for any and all matters or occurrences on or related to the Common Properties and Common Maintenance Areas.

ARTICLE VI

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Owner. Norstone, for each Lot owned by it, hereby covenants and agrees, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (or to an independent entity or agency which may be designated by the Association to receive such monies) Regular, Special, Individual and Capital Reserve Assessments as provided in this Declaration. The judgment of the Board of Directors in establishing Regular, Special, Individual and Capital Reserve Assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

The Regular, Special, Individual and Capital Reserve Assessments (as defined herein and together called "Assessments"), together with such late charges, interest and costs of collection thereof as hereinafter provided, shall be a charge on the Lots and shall be a continuing lien ("Assessment Lien") upon each Lot against which each such Assessment is made and shall also be the continuing personal obligation of the Owner of such Lot at the time when the Assessment fell due. The personal obligation of the then existing Owner to pay such Assessments, however, shall remain the Owner's personal obligation and shall not pass to Owner's successors in title unless expressly assumed by them. However, the Assessment Lien shall be unaffected by any sale, conveyance, or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for any Assessment provided herein by non-use of the Common Properties or abandonment of the Lot.

Section 2. Regular Assessments. The Regular Assessments shall be used exclusively for the purpose of promoting the health, recreation, safety, and welfare of the residents of Brentwood Villas. Without limiting the foregoing, Regular Assessments may be used for: the improvement and maintenance of Common Maintenance Areas, streets, street lighting, esplanades, access easements, walkways, landscape areas (including irrigation), fences, common greens, or other properties within Brentwood Villas; services and facilities devoted and related to the use and enjoyment of the Common Properties; the payment of taxes on the Common Properties and insurance in connection with the Common Properties; maintenance and repair of private streets; the payment for electricity for street lights and exterior lights and the repair, replacement and additions of

various items within the Common Properties; trash and garbage collection; community services arrangements; payment of legal and all other expenses incurred in connection with the collection, enforcement and administration of all assessments and charges and in connection with the enforcement of this Declaration; employing policemen or watchmen and/or a security service; and exterior maintenance of Residences, as may be determined necessary and appropriate by the Association from time to time; paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Properties and Common Maintenance Areas; and in general, carrying out the duties of the Association and the Board of Directors.

Section 3. Basis and Amount of Regular Assessments. Date of Commencement. Regular Assessments shall be assessed annually and shall be paid annually or in more frequent intervals as shall be determined by the Board of Directors. The Board of Directors shall adopt an annual budget for each fiscal year, which budget shall provide for the annual level of Regular Assessments and the due dates therefore. In establishing due dates and scheduling the payment of Regular Assessments, the Board of Directors may establish a time-price differential schedule for the payment of the Regular Assessment in which the lowest amount is the Regular Assessment. After the initial rate for the Regular Assessment is set by the Board of Directors, in any given year the Board of Directors may raise the Regular Assessment a maximum of ten percent (10%) over the previous year's Regular Assessment. An increase in the Regular Assessment in excess of ten percent (10%) will require an affirmative vote of a majority of the Resident Members and Norstone present in person or by proxy and entitled to vote, a quorum being present, at a meeting called to consider such increase in the Regular Assessments.

Section 4. Special Assessments. In addition to the Regular Assessments authorized by Section 3 hereof, the Association may levy a Special Assessment ("Special Assessment"), applicable to that year or a specified number of years, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of Improvements upon the Common Properties, including any necessary fixtures and personal property related thereto, or for unusual or emergency purpose; provided that any such assessment shall have the affirmative approval of a majority of the Board of Directors.

Section 5. Rates of Regular and Special Assessments. Both Regular and Special Assessments shall be apportioned equally among all Lots. Norstone shall not be required to pay the Regular Assessment for its Lots.

Section 6. Capital Reserve Assessments. In addition to the Regular Assessments authorized by Section 3 and Special Assessments authorized by Section 4 hereof, the Association may levy a Capital Reserve Assessment ("Capital Reserve Assessment") against the Townhome Units, applicable to that year or a specified number of years, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of common elements of the Townhome Units, including, but not limited to the roofs and common walls and any necessary fixtures and personal property related thereto, or for unusual or emergency purpose; provided that any such assessment shall have the affirmative approval of a majority of the Board of Directors.

Section 7. Due Dates. The Board of Directors may prescribe from time to time that the Regular Assessments are to be collected on an annual, semi-annual, quarterly, or monthly basis, and accordingly, the Board of Directors shall prescribe the appropriate due dates and, if applicable, the time-price differential rates and due dates. All Regular Assessments shall be collected in advance. The due date or dates (if it is to

be paid in installments) of any Special or Capital Reserve Assessment shall be fixed in the respective resolution authorizing such assessment.

Section 8. Individual Assessments. The costs and expenses incurred by the Association with respect to an Owner's failure to comply with the provisions of Section 6 of Article VIII and Section 14 of Article IX may be assessed as an Individual Assessment against the particular Lot and shall be the personal obligation of the Owner of the Lot at the time when such costs and expenses were incurred. Individual Assessments shall be due and payable in accordance with the resolution of the Board of Directors fixing the Individual Assessment.

Section 9. Delinquent Assessments. If any Assessment or part thereof is not paid when due, the Association shall have the right and option to impose a late charge to cover the additional administrative costs involved in handling the account or to reflect any time-price differential assessment schedule adopted by the Association. Subject to the provisions of Section 13 of this Article VI, the unpaid amount of any such delinquent assessment shall bear interest from and after the date when due at such rates; provided, however, in no event shall such rate, together with all other amounts that constitutes interest, exceed the maximum lawful rate. The Association may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid assessments and delinquent accounts, and there shall also be added to the amount of any unpaid assessment or to any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association.

Section 10. Certificates; Notice to Mortgagee. The Association shall, upon reasonable demand, furnish to any Owner liable for said Assessment and may furnish to any other interested person, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Association for the issuance of such certificate.

The Association may give written notification to the holder(s) of the first mortgage on the Lot or any Improvements thereon of the non-paying Owner of such Owner's default in paying any Assessment when such default has not been cured within thirty (30) days of the original date due, provided that the Association has theretofore been furnished in writing with the correct name and address of the holder(s) of such first mortgage and a request to receive such notification.

Section 11. Effect of Non-Payment of Assessments; Remedies of the Association.

(a) In order to secure the payment of the Assessments hereby levied, the Assessment Lien is hereby reserved in each deed from Norstone to the Owner of each Lot, which Assessment 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 of any amount owed to the Association. Alternatively, the Association may bring an action at law against the Owner personally obligated to pay any delinquent Assessment, and, independent of any such action, may foreclose the Assessment Lien by judicial proceedings. In addition to any other remedy, in the event of nonpayment by any Owner of such Owner's portion of any Assessment, the Association may, acting through the Board, upon ten (10) days prior written notice thereof to such nonpaying Owner, in addition to all other rights and remedies available at law or otherwise, restrict the rights of such nonpaying Owner to use the

Common Properties, if any, in such manner as the Association deems fit or appropriate and/or suspend the voting rights of such nonpaying Owner so long as such default exists.

(b) The President of the Board of Directors or his or her designee is hereby appointed Trustee to exercise the Association's power of sale. The Trustee will not incur any personal liability hereunder except for his or her own willful misconduct.

(c) Although no further action is required to create or perfect the Assessment Lien, the Association may, as further evidence of the Assessment Lien, give notice of the Assessment Lien by executing and recording a document setting forth the amount of the delinquent sums due to the Association at the time such document is executed and the fact that a lien exists to secure the payment thereof. Failure of the Association to execute and record any such document will not, to any extent, affect the validity, enforceability or priority of the Assessment Lien. The Association also has the right, but not the obligation, to notify a delinquent Owner's lender, in writing, of such Owner's delinquency and default.

(d) In the event the Association determines to non-judicially foreclose the Assessment Lien pursuant to the Section 51.002 of the Texas Property Code (or any successor statute) and to exercise the power of sale hereby granted, the Association will 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 Norstone, Association or any Owner, shall have the right to bid for such property at the foreclosure sale and to acquire ownership of the same. If such property is purchased by the Association at the foreclosure sale, with respect to such foreclosed property (1) the Association will not have the right to exercise any vote with respect to the foreclosed property, (2) no Assessments will be levied against the foreclosed property, and (3) each other Lot may be charged, in addition to its usual Assessments, an equal pro rata share of the Assessments that would have been levied against such foreclosed property if it had not been acquired by the Association as a result of foreclosure, until the foreclosed property is sold by the Association. From the proceeds of the foreclosure sale, (1) all expenses incurred by the Association in connection with the default, including attorneys' fees and trustee's fees will be paid first; (2) second, the Association will be paid an amount equal to the amount of Assessments in default inclusive of interest, late fees and attorneys' fees; (3) third, the remaining balance, if any, shall be paid to the delinquent Owner of the foreclosed property. Following any such foreclosure, each occupant of the foreclosed property will be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

Section. 12. Subordination of the Lien to Mortgages. The Assessment Lien shall be subordinate to any valid first lien or mortgage and any valid lien securing the construction of Improvements. The sale or transfer of a Lot pursuant to a foreclosure under any such lien or mortgage shall extinguish the Assessment Lien, but only as to Assessments that became due prior to such foreclosure. No such foreclosure shall relieve such Lot or the then Owner thereof from liability for any Assessments thereafter becoming due. In addition to the automatic subordination provided hereinabove, the Association, in the discretion of its Board of Directors, may subordinate the Assessment Lien to any other mortgage, lien or encumbrance subject to such limitations, if any, as the Board of Directors may determine.

Section 13. Exempt Property. All properties dedicated to and accepted by a local public or governmental authority and all Common Properties shall be exempt from any assessments, charge and lien created herein.

Section 14. Savings Clause. All agreements between any Owner and the Association, whether now existing or hereafter arising and whether written or oral and whether implied or otherwise, are hereby expressly limited so that in no contingency or event whatsoever shall the amount of interest collected, charged, or received by the Association for the payment or performance of any covenant or obligations contained herein or in any other document related hereto exceed the maximum amount of interest permitted to be collected, charged, or received under applicable law. If from any circumstance whatsoever, the fulfillment of any provision hereof or of such other document at the time performance of such provision shall be due, shall involve exceeding the limit of validity prescribed by law, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance the Association should ever collect, charge, or receive an amount deemed interest by applicable law which shall exceed the maximum amount of interest permitted to be collected, charged, or received under applicable law, such amount which would be excessive interest shall be applied to the reduction of the principal amount owing on such obligation and not to the payment of interest, or if such excess interest exceeds the principal balance of the assessment or other obligation, the excess shall be refunded to the Owner or other obligor. The right to accelerate the maturity of any assessment or other obligation owing to the Association shall not include the right to accelerate the maturity of any interest which has not otherwise accrued on the date of such acceleration, and the Association does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid by any Owner for the use, forbearance or detention of any indebtedness to the Association shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term of such indebtedness until payment in full so that the actual rate of interest on account of such indebtedness is uniform throughout the term thereof. The terms and provisions of this paragraph shall control and supersede any other provision of this Declaration and any other agreement between any Owner and the Association. The maximum lawful rate shall be determined by utilizing the indicated rate ceiling from time to time in effect pursuant to Tex. Rev. Civ. Stat. Art. 5069-1.04, as may be amended from time to time. In no event shall the provisions of Chapter 15 of the Texas Credit Code (Tex. Rev. Civ. Stat. Art. 5069-15.01, et seq.) be applicable to any assessment or obligation.

ARTICLE VII

INSURANCE; REPAIR; RESTORATION; COMMUNITY SERVICES ARRANGEMENTS

Section 1. Insurance. The Association may purchase, carry and maintain in force insurance covering any or all portions of Brentwood Villas or Common Properties, any Improvements thereon or appurtenance thereto, for the interest of Norstone, the Association, its Board of Directors, agents and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as shall be deemed appropriate by the Association. Such insurance may include, but need not be limited to:

(a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs;

(b) Comprehensive public liability (including, without limitation, liability insurance relating to the community services personnel and community services arrangements) and property damage insurance on a broad form basis, including coverage of personal liability (if any) of the Declarant, Owners, and Members with respect to the Common Properties; and

(c) Fidelity bond for all officers and employees of the Association having control over the receipt or disbursement of funds.

The Association may carry public liability insurance generally covering bodily injury and property damage arising out of negligent acts by employees, members or authorized representatives of Norstone or the Association. The Association will not carry any insurance pertaining to, nor does it assume any liability or responsibility for, the real or personal property of the Owners and Members (and their respective family members and guests) other than Norstone.

Section 2. Insurance Proceeds. The Association shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Properties.

Section 3. Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a Special Assessment to cover the deficiency.

Each Owner, Resident, and Member expressly understands, covenants and agrees with the Declarant and the Association that:

(a) neither Declarant nor the Association has any responsibility or liability of any kind or character whatsoever regarding or pertaining to the real and personal property of each Owner, Resident, and Member, except those expressly assumed by the Association with respect to the Common Maintenance Areas;

(b) each Owner, Resident, and Member shall, from time to time and at various times, consult with reputable insurance industry representatives of each Owner's and Member's own selection to select, purchase, obtain, and maintain appropriate insurance providing the amount, type and kind of insurance deemed satisfactory to each Owner, Resident, and Member covering his or her real and personal property, including appropriate insurance coverage for Townhome Units required due to the existence of common walls;

(c) each Owner, Resident, and Member releases the Declarant and the Association and their respective agents, employees, officers, directors, and partners from any liability, claims, causes of action or damages of any kind or character whatsoever arising out of or related (directly or indirectly) to any and all aspects of the private streets within Brentwood Villas; and

(d) each Owner, Resident, and Member will cooperate with the Declarant, the Association in connection with the establishment and maintenance of reasonable controls on the pedestrian and vehicular traffic into and within Brentwood Villas and abide by any and all rules and regulations of the Association, as adopted and promulgated from time to time, related to the Common Maintenance Areas, and entry upon and use of any private streets and other Common Areas within Brentwood Villas.

ARTICLE VIII

ARCHITECTURAL AND DESIGN REVIEW

Section 1. Architectural Review Committee. The Architectural Review Committee ("Architectural Review Committee") shall be composed of at least three (3) individuals selected and appointed by Norstone, each generally familiar with residential and community development design matters and knowledgeable about Norstone's concern for a consistent first class approach to and construction of Improvements within Brentwood Villas. In the event of the death, incapacity or resignation of any member of the Architectural Review Committee during the Development Period, Norstone shall have exclusive authority to designate and appoint the successor member. After the Development period, the Architectural Review Committee shall be a committee of the Association, and its members shall be appointed, and replaced in the event of death, incapacity or resignation, by the Association, acting through the Board of Directors.

The Architectural Review Committee may, at any time and from time to time, associate or employ a staff and to seek and obtain professional advice and counsel (including but not limited to architects, attorneys, designers, engineers, and landscape technicians) in connection with the performance of its duties with all reasonable costs and expenses related thereto paid for or reimbursed by the Association. The Association may, in turn, reasonably recoup some or all of these expenses from the applicants seeking review and approval of plans and specifications.

Section 2. Architectural Review Committee Approval Required. No Residence or other Improvement shall be erected, placed, maintained, modified or altered on any Lot until the preliminary, final architectural design plans and landscape design plans for such Residence or Improvement, as the case may be, have been submitted to and approved in writing by the Architectural Review Committee, by a majority of its members in the manner provided in Section 4 of this Article VIII. In addition, construction of all Residences and Improvements shall conform to the construction standards and requirements with respect to execution of construction set forth in the Design Guidelines.

The Architectural Review Committee is authorized and empowered to consider, review, approve or reject, as it deems appropriate, any and all aspects of design, architecture, construction, location of Residences and other Improvements as to conformity and harmony with the architectural and design scheme of Brentwood Villas as established by the Design Guidelines and as developed by the Architectural Review Committee as contemplated in Section 3 of this Article VIII, or which may, in the opinion of the Architectural Review Committee, adversely affect the living enjoyment of one or more Owner(s) or Residents or the value of Brentwood Villas. Rejection of any such matters shall be based upon such grounds, and approval may be subject to such conditions, as the Architectural Review Committee may deem appropriate and which grounds and conditions may include, without limitation, solely aesthetic grounds or considerations. The Architectural Review Committee is permitted to consider technological advances and changes in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the opinion of the Architectural Review Committee.

Section 3. Design Guidelines. The Declarant shall prepare and promulgate the initial Design Guidelines. The Architectural Review Committee may, from time to time, publish and promulgate additional, supplemental, or revised Design Guidelines, and such guidelines shall be explanatory and illustrative of the general intent of the proposed development of Brentwood Villas and are intended as a guide to assist the

Architectural Review Committee in reviewing architectural design plans, landscape design plans, and construction standards and execution of design and construction. The Architectural Review Committee may from time to time publish and promulgate architectural design and construction standards, specifications and rules, which may be of general or specific applicability and shall supplement and be a part of the Design Guidelines. The Architectural Review Committee shall have the right, power and authority to establish and prescribe architectural design and construction restrictions, limitations, and guidelines pertaining to items and topics such as (but not limited to):

(a) Site Planning, which may take maximum advantage of the natural features and existing trees, which may include, but not be limited to, the following:

- (i) Size and location of buildings, including, but not limited to:
 - 1) Minimum allowable floor area;
 - 2) Maximum height;
 - 3) Building lines; and
 - 4) Total site coverage of building, walks, driveways, and other Improvements;
- (ii) Floor plan design;
- (iii) Garage, carport and porte cochere and sidewalk locations, width and materials;
- (iv) Limitation or prohibition of circular drives/motor courts;
- (v) Tree preservation and clearing;
- (vi) Site grading and drainage;
- (vii) Special requirements for construction of a Residence on more than one Lot;
- (viii) Gates, walls and fences design, location and materials;
- (ix) Location and screening of non-architectural Improvements such as landscaping in the Common Maintenance Areas, recreational equipment, sculpture or statues, garden ornaments, decorative exterior lighting fixtures; and
- (x) Location and screening of exterior air-conditioning equipment.

(b) Architectural design, which may cover, among other items:

- (i) Style;
- (ii) Features, such as (but not limited to) street image, exterior lighting fixtures and schemes, entry, roofscape, windows, color, and porches;

- (iii) Scale and image, appropriateness of scale, a balanced relationship between the sizes of architectural elements, the size of the overall structure, and the distance to the street;
 - (iv) Energy conservation (including without limitation, orientation of the Residence to the Lot, room orientation within the Residence, and minimization of large glass areas on south or west exposures);
 - (v) Roof, chimney, and skylight design and materials;
 - (vi) Exterior wall design, including but not limited to foundations, number of exterior materials, changes in material, windows, glazing, shutters, and burglar bars;
 - (vii) Exterior color schemes; and
 - (viii) House numbers.
- (c) Construction standards regarding, without limitation:
- (i) Products;
 - (ii) Fill and backfill materials;
 - (iii) Soil treatment for termite control;
 - (iv) Landscaping materials;
 - (v) Lawn materials;
 - (vi) Tree and planting materials;
 - (vii) Fence, wall and gate materials;
 - (viii) Concrete materials;
 - (ix) Masonry work;
 - (x) Carpentry materials;
 - (xi) Insulation;
 - (xii) Roofing;
 - (xiii) Special requirements as to stucco; and
 - (xiv) Exterior lighting.
- (d) Execution of design and construction, which may cover, among other items:
- (i) Site construction, including conformance to the Declaration, recorded plat, and to requirements of authorities having jurisdiction, and standards as to excavation, and site grading and drainage;
 - (ii) Concrete work (including without limitation, requirements as to foundations and slabs);
 - (iii) House framing;
 - (iv) Heating, ventilating and air conditioning system performance requirements;

- (v) Electrical systems; and
- (vi) Miscellaneous construction items such as (but not limited to) fireplace construction, glass, attic ventilation, smoke detectors, fences, and driveways

PRIOR TO ACQUIRING ANY INTEREST IN A LOT, EACH PROSPECTIVE PURCHASER, TRANSFEREE, MORTGAGEE, AND OWNER IS STRONGLY ENCOURAGED TO CONTACT THE ARCHITECTURAL REVIEW COMMITTEE TO OBTAIN AND REVIEW THE MOST RECENT DESIGN GUIDELINES WHICH WILL CONTROL THE DEVELOPMENT, CONSTRUCTION AND USE OF THE LOT.

THE DESIGN GUIDELINES MAY CONTAIN STANDARDS, REQUIREMENTS, OR LIMITATIONS IN ADDITION TO THOSE EXPRESSLY SET FORTH OR REFERRED TO IN THIS DECLARATION AND MORE STRINGENT STANDARDS, REQUIREMENTS, OR LIMITATIONS THAN ANY SPECIFIC STANDARD, REQUIREMENT OR LIMITATION SET FORTH OR REFERRED TO IN THIS DECLARATION.

Section 4. Preliminary and Final Plan Submissions. The following is a general outline of the steps and required information involved in the review of architectural design plans:

- (a) Submit to the Architectural Review Committee preliminary architectural design plans which may include, but not be limited to, plot plan with the survey, roof plan, floor plans, all exterior elevations, and proposed exterior materials) to the Architectural Review Committee;
- (b) Submit to the Architectural Review Committee landscape design plans which may include, but shall not be limited to: site plan showing building footprint, building lines setback, and existing vegetation to be removed and to be preserved, location of proposed exterior lighting fixtures, walks, drives, fences, pools, and other site Improvements, location size, type and quantity of plant materials; grading plan; fence plans; and additional elevations, details and sketches to complete description of proposed site Improvements;
- (c) Submit to the Architectural Review Committee final architectural design plans which may include, but not be limited to: site plan and roof plan including, without limitation, sidewalks, driveway and other exterior flatwork, mechanical equipment, lot coverage, height and material of exterior fences and walls; floor plans, complete elevations; building sections, wall sections, details, and other drawings as required by the Architectural Review Committee and samples of colors and specifications that will positively identify materials;
- (d) Submit plans and specifications to the City of Houston; and
- (e) Submit a copy of the building permit to the Architectural Review Committee.

The Architectural Review Committee may review and comment on preliminary architectural design plans submitted in duplicate on an informal basis to assist Owners, developers, homebuilders, and prospective purchasers of the Lots in complying with this Declaration and to assist in the completion of any feasibility studies undertaken by such persons or entities. The Architectural Review Committee shall have the right,

however, to prescribe reasonable limitations concerning the time, effort and expense likely to be involved in handling such matters on an informal basis.

If the preliminary plans are approved by the Architectural Review Committee, the Owner or the Owner's designated representative will be so advised by letter containing a statement and explanation of items found not to comply with this Declaration and the Design Guidelines. If the Architectural Review Committee fails to approve or disapprove such plans within two (2) weeks after the actual date on which the submission is received, disapproval of the matters submitted shall be presumed. Comments on and approvals of preliminary architectural design plans shall be binding upon the Architectural Review Committee provided that conforming final plans and specifications are submitted within three (3) months of such preliminary comments or approvals.

Landscape design plans shall be submitted to the Architectural Review Committee prior to or with the final architectural design plans. The method and manner of review and approval shall be consistent with that of the final design plans.

Final architectural design plans shall be submitted to the Committee for approval or disapproval. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans, specifications and surveys meet the approval of the Architectural Review Committee, one complete set of plans, specifications and surveys will be retained by the Architectural Review Committee and the other complete set will be marked "Approved" and returned to the Lot Owner or his designated representative. If found not to be in compliance with this Declaration and the Design Guidelines, one set of such plans, specifications, and surveys shall be returned marked "Disapproved," accompanied by a reasonable statement and explanation of items found not to comply with this Declaration and the Design Guidelines. Any modification or change to the approved set of plans, specifications and surveys must again be submitted to the Architectural Review Committee for its inspection and approval. The Architectural Review Committee's approval or disapproval, as required herein, shall be in writing. If the Architectural Review Committee fails to approve or disapprove such final plans, specifications and surveys within thirty (30) days after the actual date on which the submission is received, then Architectural Review Committee disapproval shall be presumed.

The Architectural Review Committee may require as a condition precedent to any approval of the final architectural design plans that the applicant obtain and produce an appropriate building permit from the City of Houston, Texas. The Architectural Review Committee is also authorized to coordinate with the City of Houston in connection with the applicant's observance and compliance of the construction standards set forth in this Declaration, the Design Guidelines, and any bulletins or lot information sheets promulgated thereunder. However, the mere fact that the City of Houston issues a building permit with respect to a proposed structure does not automatically mean that the Architectural Review Committee is obliged to unconditionally approve the plans and specifications. Similarly, the Architectural Review Committee's approval of any plans and specifications does not mean that all applicable building requirements of the City of Houston have been satisfied.

Section 5. Enforcement. Following approval of any plans by the Architectural Review Committee, representatives of the Architectural Review Committee shall have the right during reasonable hours to enter upon and inspect any Residence or other Improvement which is being constructed to determine whether or not the plans thereof have been approved and are being complied with. In the event the Architectural Review Committee shall determine that such plans have been approved or are not being complied

with or that construction has commenced without prior approval from the Architectural Review Committee, the Architectural Review Committee shall be entitled to recommend to the Board of Directors, and the Board of Directors may (on its own motion with or without the recommendation of the Architectural Review Committee) take any of the following actions:

(a) Require the Owner to remove the Improvement and restore the Lot to its condition prior to any such work, all at the Owner's expense and if the Owner fails or refuses to comply with any such requirement, the Association shall have the right and power to seek appropriate injunctive relief from a court of competent jurisdiction; or

(b) If the Owner refuses or fails to properly perform the work required under (a), the Board of Directors may cause such work to be done and may charge the Owner for the cost thereof as determined by the Board of Directors which charge until paid shall be assessed as an Individual Assessment upon the Owner's Lot and any Improvements thereon; or

(c) Permit the Architectural Review Committee to ratify the action taken by the Owner, and the Architectural Review Committee may (but shall not be required to) condition such ratification upon the same conditions which the Architectural Review Committee may impose upon the giving of its prior consent under this Article.

Section 6. Release of Claims. Neither Declarant, the Association, the Architectural Review Committee, the Board of Directors, nor the officers, directors, managers, members, employees, and agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by this Declaration by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. No approval of plans and specifications and no publication of any Design Guidelines, architectural bulletins or lot information sheets shall be construed as representing or implying that such plans, specifications, guidelines, bulletins, or sheets will, if followed, result in properly designed Improvements and/or Improvements built in a good and workmanlike manner. Every person or entity who submits plans or specifications, and every Owner of each and every Lot, agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Board of Directors, or the officers, directors, managers, members, employees, and agents of any of them, to recover any such damages and hereby releases, remises, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or omission and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

PLANS AND SPECIFICATIONS ARE NOT REVIEWED OR APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR TECHNICAL QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ARCHITECTURAL REVIEW COMMITTEE, NOR THE MEMBERS THEREOF, NOR THE ASSOCIATION ASSUMES LIABILITY OR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS.

Section 7. Inspection by Architectural Review Committee. After reasonable notice to the Owner (and any applicable Resident), any member or agent of the Architectural Review Committee may from time

to time at any reasonable hour or hours enter and inspect any property subject to the jurisdiction of said Architectural Review Committee to confirm Improvement or maintenance or alteration in compliance with the provisions hereof. However, Declarant, the Association, the Architectural Review Committee, and their respective officers, directors, managers, agents, and employees shall have no obligation to enforce or to report the violation of any such law, ordinance, rule, or regulation.

Section 8. Variance. The Architectural Review Committee may authorize in writing variances from compliance with any of the Design Guidelines when circumstances such as topography, obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with specific considerations imposed by the Architectural Review Committee. No variance shall be contrary to any specific restriction set forth in this Declaration nor estop the Architectural Review Committee from denying a variance in any other circumstance. For purposes of this Section, the inability to obtain approval of any governmental agency, issuance of any permit or the terms of any financing shall not be considered a hardship warranting a variance. This Section shall not be construed so as to confer on any Owner any entitlement to a variance.

Section 9. Commencement of Construction. If work on a Residence or other Improvement is not commenced within one (1) year from the date the Architectural Review Committee approves the final architectural design plans for such work, then such approval shall be deemed revoked by the Architectural Review Committee, unless the Architectural Review Committee extends the time for commencing work for good cause shown. All work covered by such approval shall be complete within one (1) year of the commencement thereof, except for such period of time as such completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, critical materials shortages, or other intervening forces beyond the control of the Owner or contractor, unless the Architectural Review Committee extends the time for completion for good cause shown. For the purposes of this Declaration, work on an Improvement shall be deemed to have "**commenced**" when the site has been graded and, in the case of buildings, when footings or foundations have been poured or otherwise installed.

ARTICLE IX

PROTECTIVE COVENANTS

Section 1. Single Family Residential Use Only. Each Lot and Residence shall be used only as a single family attached or detached residence or townhome. However, no Owner or Resident shall be precluded from maintaining a personal professional library, keeping personal business records or accounts in, or handling personal business or professional calls or correspondence from a Residence, and the Association may make further rules and regulations governing such uses. For purposes of this restriction, and Section 2 below, a single family shall mean any number of persons related by blood, adoption or marriage living with not more than one person who is not so related as a single household unit or no more than two persons who are not so related living together as a single household unit, and the household employees of either such household unit; but expressly excludes more than one set of spouses or persons living together as husband and wife of the same generation, e.g., if spouses (with or without children) occupy the house, the parents of one spouse may also occupy the house with them, but the parents of both spouses may not simultaneously occupy the house with them, or a sibling or siblings of either of the spouses may occupy the house with them, but no spouse of any such sibling may occupy the house with them, or the spouse of one child of the couple may occupy the house with them, but no more than one spouse of a child may occupy the house with them. It is not the intent of Declarant to exclude from any Lot or Residence any individual who is authorized to 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 or other section found to be in violation shall be interpreted to be as restrictive as possible to preserve as much of the original section as allowed by law.

Section 2. Primary Residence. By acquisition of any Lot or Lots, each Owner (excluding bona fide homebuilders) covenants with and represents to Declarant and to the Association that the Lot is being specifically acquired for the specific and singular purpose of constructing and using a Residence thereon:

(a) as a primary residence for such Owner and/or Owner's family members, or

(b) if Owner is a business entity, as a primary residence for an existing officer, director, key employee, substantial shareholder, or general partner of the Owner (as identified and designated to Declarant and to the Association), to be occupied as such, and not for the purpose of investment, speculation, leasing, renting, corporate retreat, hospitality suite, or other similar disposition and each Owner agrees and covenants that no speculation, leasing, renting, corporate retreat or hospitality suite use(s) shall occur on any Lot. For purposes of this Declaration, if an Owner maintains multiple Residences, a Residence is a primary residence of the Owner so long as it is his or his family's principal residence in Houston, Texas. The covenant against leasing a Residence does not prohibit the leasing of a Residence (the entire Residence, not a part) by an Owner during periods in which such Owner or his family is not occupying the Residence, provided such lease shall be for at least a one (1) year term. No Residence shall be subject to any type of time-sharing, fraction sharing or similar program whereby the right to exclusive use of the Residence rotates among members of the program.

Section 3. Single Family Dwellings Only. No Improvements shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) attached or detached single-family dwelling or townhome and its customary and usual accessory structures (as permitted by the Architectural Review Committee); provided, however, the Architectural Review Committee may permit a Residence to be located on more than one (1) Lot and may impose specific requirements and conditions with respect to such permission.

Section 4. Subdivision. During the Development Period, Norstone may unilaterally subdivide any property it owns and that is subject to this Declaration. Except as provided above, Lots shall not be further subdivided, and, the boundaries between Lots shall not be relocated, without the prior express written consent of the Architectural Review Committee.

Section 5. Garages; Porte Cocheres; Driveway; Parking. Each Residence shall provide enclosed garage space for a minimum of two (2) conventional automobiles, unless otherwise specifically approved by the Architectural Review Committee. Each Resident shall park and store his automobile(s) within the garage. All garages will remain functional as parking areas for Resident automobile(s) and shall not be used primarily for storage of other materials. All garage doors shall be closed at all times when not in use. No Resident shall park any automobile or vehicle on any Lot outside of any approved garage area between any Residence and the abutting front street or between any Residence and an abutting side street or Lane or perform, permit or allow repair or maintenance work to any automobile or other vehicle outside the garage and visible to the abutting street(s). Under no circumstances or conditions shall any automobile or other vehicle be parked on a non-paved portion of any Lot. The Design Guidelines may provide for special setback, location construction and design requirements for garages, porte cocheres (as defined in the Design Guidelines), driveways and sidewalks.

Section 6. Fences: Signs. No gate, fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line as established by the Design Guidelines. No fence, wall or hedge shall be erected, placed or altered on any Lot without the approval of the Architectural Review Committee. During the Development Period, no signs, including, but not limited to "for sale" or "for lease" signs, shall be placed or maintained on any Lot. Norstone may place such of its own signs in Brentwood Villas as it may desire during the Development Period. After the Development Period, no sign shall be permitted on any Lot or in any other portion of Brentwood Villas.

Section 7. Equipment. All exterior mechanical or service equipment facilities must be enclosed within fences, walls or landscaping so as not to be visible from any street.

Section 8. Alarms: Security Systems. The Design Guidelines may require that the construction plans and specifications for each Residence include provisions for the installation of first-class fire and burglar alarms, smoke detectors and such other safety and security devices which, from time to time, become technologically feasible for residential use as may be further described and defined by the Architectural Review Committee. All alarm and security systems will be in compliance and permitted in accordance with applicable municipal ordinances and regulations. Neither the Declarant, nor the Association, nor the Architectural Review Committee warrant or guarantee that the required installation and equipment of these safety and security devices will, in all instances, prevent or retard criminal acts by third parties. As of the date of this Declaration there are no plans or provisions for the establishment of any centralized electronic security system in which individual dwelling security systems are hooked into a master security system. Each Owner must arrange for his individual security system to be hooked into a reputable outside security system with a central monitoring station (but not a mere telephone answering service) capable of promptly notifying the Houston police and fire protection departments (as the primary alert) with appropriate instructions to then notify the Association community services personnel (as a secondary alert).

Section 9. Temporary Structures. No temporary structure of any kind shall be erected or placed upon any Lot. Temporary structures shall include, but not be limited to, any garage, servant's house or other Improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the Residence. However, Norstone may maintain a sales office and, upon receiving the prior, express written approval of the Architectural Review Committee, any bona fide homebuilder may maintain temporary construction offices, provided such construction offices are removed within thirty (30) days after completion of sales or construction, as the case may be.

Section 10. Vehicles. Any truck (over 3/4 ton and excluding conventional pickups), bus, boat, boat trailer, mobile home, golf cart, motorcycle, recreational vehicle, campmobile, camper and any vehicle other than a conventional automobile shall, if brought within Brentwood Villas by or on behalf of any Owner, Member or Resident, be stored, placed or parked within the enclosed garage on the appropriate Lot unless otherwise directed by the Architectural Review Committee.

Section 11. Offensive Activities. No noxious or offensive activity or pollution affecting sight, sound or smell, as may be determined by the Association, shall be conducted or permitted on any portion of Brentwood Villas. All garbage shall be kept in plastic bags or other containers required by the Association and, if applicable, the City of Houston. Each Owner, Member and Resident shall observe and comply with any and all regulations or requirements promulgated by the Association and the City of Houston in connection with the storage and removal of trash and garbage. No clothes, sheets, blankets, laundry items of any kind,

or other articles shall be hung out on any Lot so as to be visible from any place outside the Residence. Each Lot shall be kept free of all rubbish, debris and other unsightly materials and no waste shall be committed thereon.

Section 12. Garage Sales. No direct sales activities (excluding, however, activities of the Declarant and bona fide homebuilders and community activities specifically approved by the Board of Directors), garage sales, yard sales, patio sales, flea markets, bazaars, sample sales, promotional dinner parties or similar activities shall be conducted within or on any portion of Brentwood Villas.

Section 13. Pets. Any noise or odor emitted by, and any discharge or waste from, any animal (including without limitation dogs and cats) which can be seen, heard or smelled outside of the perimeter of the subject Owner's Lot shall be deemed noxious and offensive and is therefore prohibited. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential Lot, except that not more than two (2) dogs, cats, or other household pets may be kept, provided that they are not noxious, offensive, vicious (for example, pit bull terriers shall not be permitted within Brentwood Villas), or dangerous as determined by the Association. Any outside pen, cage, kennel, shelter, concrete pet pad, run, track, or other building, structure or device directly or indirectly related to animals must be approved by the Architectural Review Committee in its sole and absolute discretion. Each and every dog, cat, or other household pet, if not kept and confined within an enclosed non-visible portion of the Lot, must be leashed and accompanied by an Owner or Owner's agent when traveling beyond the perimeter of the Lot, and such person shall promptly clean and remove the discharge and waste of any pet.

Section 14. Maintenance. Each Owner shall have the duty and responsibility, at his sole cost and expense, to keep and maintain his Lot, and all Improvements therein and thereon, in a well maintained, safe, clean and attractive condition at all times; provided, however, the Association will maintain the Common Maintenance Areas as set forth herein. Such maintenance shall include (without limitation):

- the proper seeding, consistent watering and mowing of all lawns;
- the pruning and cutting of all trees and shrubbery;
- prompt removal of all litter, trash, refuse and waste;
- watering of all landscape;
- keeping exterior lighting and mechanical facilities in working order;
- keeping lawn and garden areas alive, free of weeds and attractive;
- keeping driveways in good repair and condition;
- maintenance of exteriors, including, without limitation painting and promptly repairing any exterior damage; and
- complying with all governmental health and police requirements,

all in a manner and with such frequency as is consistent with aesthetics, safety and good property management. The Association, and its agents, during normal business hours, shall have the right (after ten (10) days written notice to the Owner of any Lot involved, setting forth the specific violation or breach of this covenant and the action required to be taken, and if at the end of such time reasonable steps to accomplish such action have not been taken by the Owner), to enter on the subject premises (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) and to take the action(s) specified in the notice to remedy or abate said violation(s) or breach(es). The cost of such remedy or abatement will be paid to the Association within thirty (30) days after demand and an Individual Assessment upon the Lot affected. The

Association, or its agent, shall further have the right (upon like notice and conditions), to trim or prune, at the expense of the Owner, any hedge, tree or any other planting that, in the written opinion of the Association, by reason of its location on the Lot, or the height, or the manner in which it is permitted to grow, is detrimental to the adjoining Lots, is dangerous or is unattractive in appearance.

Section 15. Exterior Surfaces. All elements of design and construction of exterior surfaces of Residences and other Improvements shall be subject to and governed by the Design Guidelines. All roofs shall be constructed of wood shingle, wood shake, slate, tile, metal, composition, built-up roof or other materials approved by the Architectural Review Committee taking into account harmony, conformity, color, appearance, quality and similar considerations. The exterior surface of all residential dwellings shall be constructed of glass, brick, stone, stucco or other materials approved by the Architectural Review Committee. The Architectural Review Committee may require a continuous, uniform surface or other special requirements with respect to the elevations of all Improvements which face a perimeter common green area, a street or any Reserve designated in the plat of Brentwood Villas. Installation of all types of exterior items and surface such as address numbers or external ornamentation, outdoor illumination, lights, postal stations, exterior paint or stain and the like shall be subject to the prior approval of the Architectural Review Committee. Each Owner shall keep and maintain the quality and appearance of all exterior surfaces, particularly those areas covered by an approved paint or stain, in good repair, condition and appearance. 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 Lot, which is visible from any street or other Lot unless it is impossible to receive signals from said location. In that event the receiving device may be placed in a visible location where reception is possible. No satellite dishes shall be permitted which are larger than 1 meter in diameter. No broadcast antenna may exceed the height of the center ridge of the roofline. No MMDS antenna may exceed the height of ten feet (10') above 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. The Declarant, by promulgating this section, is not attempting to violate the Telecommunications Act of 1996 (the "Act"), as may be amended from time to time. This section shall be interpreted to be as restrictive as possible while not violating the Act.

Section 16. Compliance with Laws. No Improvements or addition or change or alteration thereof shall be constructed, erected, placed, altered, or maintained on any Lot which is in violation of any of the laws or ordinances of the City of Houston, Texas or any other applicable governmental laws, ordinances, rules or regulations.

Section 17. Homeowner Insurance. Each Owner must carry and maintain in force insurance covering any or all portions of Improvements on the Owner's Lot for the benefit of Owner in an amount equal to the value of the Improvements. For the purposes of this Section 17, the value of the Improvements is equal to any mortgage balance on the Lot or replacement value of the Improvements, excluding foundation and excavation costs. Such insurance should provide coverage (i) against loss or damage by fire and hazards covered by a standard extended coverage endorsement, and (ii) for comprehensive liability and property damage insurance on a broad form basis. Such coverage should be provided by insurers licensed to do business in Texas and with an A. M. Best rating of A-6 or better.

ARTICLE X

EASEMENTS

Section 1. Rights to Grant Easements. There is hereby reserved for the benefit of Norstone, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from Harris County, The City of Houston, or any other public authority or agency, utility district, or public or private utility company, upon, over, under, and across the Common Properties, and those portions of all Lots as are reasonably necessary, for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers, drainage systems and facilities for Brentwood Villas or any portion thereof, and electrical, gas, telephone, water, and sewer lines, street lights, street signs and traffic signs; provided, however, that such easements shall not unreasonably affect the developability, marketability or value of any Lot. Such easements may be granted or accepted by Norstone or by the Board; provided, however, until the end of the Development Period the Board must obtain the written consent of Norstone prior to granting or accepting any such easements.

Section 2. Easement for Fire and Police Protection. Norstone hereby grants to Harris County, The City of Houston, or such other governmental authority or agency as shall from time to time have jurisdiction over Brentwood Villas (or any portion thereof) with respect to law enforcement and fire protection, the perpetual, non-exclusive right and easement upon, over and across all of the Common Properties for purposes of performing such duties and activities related to law enforcement and fire protection in Brentwood Villas as shall be required or appropriate from time to time by such governmental authorities under applicable law.

Section 3. Right of Entry for the Association. The Association shall have the right, but not the obligation, to enter into any Lot for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration and its rules and regulations, which right may be exercised by the Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Association.

Section 4. Easements for Public Utilities. Except as may be otherwise permitted by the Architectural Review Committee (for example, fencing, flatwork, or landscaping), no Owner shall erect, construct or permit any obstructions or permanent Improvements of any type or kind to exist within any easement area for public utilities which would restrict or adversely affect drainage or the use of the easement for its intended purpose. Each Owner assumes, full, complete and exclusive liability and responsibility for all cost and expense related to damage, repair, relocation and restoration of such Improvements or fence. Except as to special street lighting or other aerial facilities which may be required by municipal authorities or which may be required by the franchise of any utility company or which may be installed by Norstone pursuant to its development plan, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed in Brentwood Villas whether upon individual Lots, easements, streets or rights-of-way of any type,

either by the utility company or any other person or entity, and all utility service facilities (including, but not limited to, water, sewer, gas, electricity and telephone) shall be buried underground unless otherwise required by a public utility. All utility meters, equipment, air conditioning compressors and similar items must be visually screened in a manner satisfactory to the Architectural Review Committee.

Section 5. Required Notices. Pursuant to requirements by utility company(ies) providing service to Brentwood Villas, the following provisions and covenants are to run with the land within Brentwood Villas with the same force and effect as all other covenants herein and as if such provisions and covenants had originally been recited within each deed to each Lot executed and delivered by Norstone:

(a) Electrical service of the type known as 120/240 volt, single phase, 3 wire, 60 cycle, alternating current has been made available to the Lot hereby conveyed by means of underground facilities, at a cost in excess of the cost of service provided by the usual and standard overhead facilities, and each Owner acknowledges for himself, his heirs, executors, administrators, successors and assigns, that electric service of any character other than that hereinabove described will not be available except at added cost to such Owner and in accordance with the rules and regulations for electric service of the subject electric utility company; and

(b) Since electric service is to be furnished to each of the Lots solely by underground facilities, each Owner agrees for himself, his heirs, executors, administrators, successors and assigns, that he will, at his own expense, install and maintain the necessary underground facilities to connect the Owner's installation with the service wires of the subject electric utility company and security system at the point of delivery of electric energy."

Each Owner shall assume full and complete responsibility for all costs and expenses arising out of or related to the repair, replacement or restoration of any utility equipment damaged or destroyed as a result of the negligence or mischief of the Owner.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Power of Attorney. Each and every Owner hereby makes, constitutes and appoints Norstone as his/her true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her and in his/her name, place and stead and for his/her use and benefit, to do the following:

(a) to exercise, do or perform any act, right, power, duty or obligation whatsoever in connection with, arising out of, or relating to any matter whatsoever involving this Declaration and Brentwood Villas;

(b) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the terms within this Declaration, or any part hereof, with such clause(s), recital(s), covenant(s), agreement(s) and restriction(s) as Norstone shall deem necessary, proper and expedient under the circumstances and conditions as may then be existing; and

(c) to sign, execute, acknowledge, deliver, and record any and all instruments which modify, amend, change, enlarge, contract, or abandon the subdivision plat(s) of Brentwood Villas, or any part thereof,

with any easements and rights-of-way to be therein contained as Norstone shall deem necessary, proper and expedient under the conditions as may then be existing.

The rights, powers and authority of said attorney-in-fact to exercise any and all of the rights and powers herein granted shall commence and be in full force upon recordation of this Declaration in the Real Property Records of Harris County, Texas and shall remain in full force and effect thereafter until the thirtieth (30th) anniversary of the recordation of this Declaration.

Section 2. Duration. This Declaration shall run for an original fifty (50) year term beginning on the date of recordation of this Declaration in the Real Property Records of Harris County, Texas after which time this Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the Members entitled to cast ninety percent (90%) of the votes of the Association and recorded in the Real Property Records of Harris County, Texas, which contains and sets forth an agreement to terminate this Declaration.

Section 3. Amendments. This Declaration is expressly subject to change, modification and/or deletion by means of amendment at any time and from time to time as provided herein. Notwithstanding Section 2 of this Article, this Declaration may be amended as provided in Article II, Section 2 and as follows:

(a) Provided that there is no adverse affect to the title to any Owner's property or that any such Owner shall consent thereto, this Declaration may be amended unilaterally at any time and from time to time during the Development Period by Declarant, utilizing the power of attorney status as set forth in Section 1 above, (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is 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 property subject to this Declaration; (c) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; (d) to correct errors in the Declaration; or (e) to modify or add to the provisions of this Declaration to adequately cover situations and circumstances which the Declarant believes, in its reasonable judgment, have not been adequately covered and would not have a material and adverse affect on the marketability of Lots; and

(b) After the Development Period, this Declaration may be amended upon the express written consent of a majority of the Board of Directors and the Members entitled to cast at least fifty-one percent (51%) of the votes of the Association, and as otherwise expressly provided herein.

All amendments shall be recorded in the Real Property Records of Harris County, Texas.

Section 4. Enforcement; Resolution of Certain Disputes. This Declaration may be enforced by the Declarant, the Association or any Owner. Any attempt to assign the right to enforce this Declaration is void. Enforcement of this Declaration may be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, whether the relief sought is an injunction or recovery of damages, or both, or enforcement of any lien created by this Declaration; but failure by the Declarant, the Association or any Owner to enforce any covenant, restriction or provision herein contained shall in no event

be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys' fees from the nonprevailing party.

Matters of dispute or disagreement between Owners with respect to interpretation or application of the Protective Covenants in Article IX of this Declaration shall be determined by the Board of Directors. Matters pertaining to Architectural and Design Review in Article VIII. These respective determinations (absent arbitrary and capricious conduct or manifest error) shall be final and binding upon all Owners.

Section 5. Validity. Violation of or failure to comply with this Declaration shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any Lot. Invalidation of any provision of this Declaration, or any portion thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect.

Section 6. Proposals of Declarant. The proposals of Norstone, whether contained herein or otherwise to develop additional parcels of property for residential purposes and/or expand the Common Properties (not only geographically but also in terms of the types of amenities available for use) and items of a related nature are mere proposals and expressions of the existing good faith intentions and plans of the Declarant and shall not be deemed or construed as promises, solicitations, inducements, contractual commitments or material representations by Norstone upon which any person or entity can or should rely.

Section 7. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context required otherwise.

Section 8. Notices to Member/Owner. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States Mail, postage prepaid, addressed to the last known address of the person who appears as the Member or Owner on the records of the Association at the time of such mailing.

IN WITNESS WHEREOF, the Declarant herein and as Attorney in Fact for all Owners as provided in Section 1 of Article XI of this Declaration, has caused this instrument to be executed this _____ day of _____, 2000.

[See Attached Signature Pages]

