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of protecting the value and desirability of the Laguna and Playa Residential Areas and the remaining Properties, and which shall constitute covenants running with the real property and shall apply to all of the land conveyed in Laguna San Luis I and Playa San Luis I by deeds hereafter made by Declarant whether or not specific reference is made in such deeds to the Master Declaration or this Declaration and shall be binding on all parties having any right, title or interest in the Laguna and Playa Residential Areas or any part thereof and their heirs, legal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof and their heirs, legal representatives, successors and assigns.

DEFINITIONS

All capitalized terms used in this Declaration shall have the meanings ascribed to them in the Master Declaration, unless otherwise specified herein. Any capitalized term defined in the Master Declaration, that is used herein preceded by the words "Laguna and Playa" shall have the meaning ascribed to such term in the Master Declaration, except that it shall be limited in application to the Laguna and Playa Residential Areas.

Wherever used in this Declaration, the following terms shall have the following meanings:

"ARC" whenever used herein, shall mean a committee of three (3) members to review all plans for development and improvements as may be proposed for Pointe San Luis, the powers and authorities of which are described more particularly in Article VI of the Master Declaration.

"Base Flood Elevation (BFE)" shall mean the minimum elevation at which any structure must be constructed to be in conformance with the required standards of the City of Galveston and the Federal Emergency Management Agency.

"Construction Guidelines" shall mean and refer to the Pointe San Luis Design and Development Standards established or to be established by the Design Review Committee, as amended from time to time.

"Control Transfer Date" shall mean the date referred to in Article IV Section 2 below.

"Declarant" whenever used herein, shall refer to FIMSA, INC. and its successors and assigns.

"General Land Use Plan" shall mean the master plan drawing approved by the Galveston City Council which delineates the types, densities, acreages, and site designations of uses permitted within the Pointe San Luis Planned Development Zone.

"Improvements" shall mean all structures and any appurtenances thereto of every type or kind, including, but not limited to, buildings, out-buildings, swimming pools, patio covers, awnings, painting of any exterior surfaces of any visible structures, additions, walkways, sprinkler pipes, garages, carports, roads, driveways, parking areas, screenings, walks, retaining walls, stairs, decks, fixtures, windbreaks, poles, signs, exterior tanks, solar energy equipment, exterior air conditioning fixtures and equipment, water softener fixtures, exterior lighting, recreational equipment and facilities and landscaping which is visible from land within the Properties, other than the Lot or Site on which such landscaping is located.

"Open Space Area(s)" shall have the meaning assigned in the first recitation on the first page of this Declaration which are for the benefit of the Owners of Pointe San Luis. Such areas are sometimes herein referred to as "Common Areas."

"Pointe San Luis" when used herein shall refer to certain lands on Galveston Island in Galveston County, Texas which are shown as Pointe San Luis on the plats of portions of the General Land Use Plan for the Property as revised from time to time.

"Properties" shall mean and refer to the Property including Sites and Lots contained therein and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

"Subassociation" shall have the meaning ascribed to it in Article IV, Section 1.

"Subassociation Design Review Committee" or "Subassociation DRC" shall have the meaning ascribed to it in Article II Section 1 hereof.

"Wetlands" shall mean those areas in Pointe San Luis, designated by the U.S. Army Corps of Engineers, which are inundated or saturated often enough to support vegetation adapted for life in saturated soil. Any and all development activities within the Wetlands are strictly prohibited without the written permission of the Declarant, the Association and the U.S. Army Corp. of Engineers. The Wetlands shall be preserved as Open Space Area for the visual benefit of the public and for their value as a wildlife habitat.

ARTICLE I USES PROHIBITED AND PERMITTED

Section 1. Residential Purposes. All Lots in Laguna and Playa Residential Areas shall be used for single family residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family dwelling (sometimes herein referred to as a "Class A Residential Building") not to exceed two (2) stories of enclosed dwelling area in height. No structure shall exceed 35 feet in height, measured from the Base Flood Elevation. Notwithstanding the foregoing, Lots and dwelling units owned by Declarant or its nominees may be used as models and sales offices and construction offices for the purpose of selling the dwellings in the Properties until all of the dwellings thereon are sold by Declarant. As used herein, the term "residential purposes" shall be construed to include tennis courts, swimming pools, or similar recreational facilities, subject to the approval of the "Subassociation Design Review Committee" (as hereinafter defined in Section 1 of Article II of this Declaration), and to exclude mobile homes or trailers placed on said Lots, or the use of said Lots for duplex houses, condominiums, townhouses, garage apartments or apartment houses. Subject to Declarant's rights to market and sell the Properties, no Lot shall be used for business, educational, religious or professional purposes of any kind whatsoever, nor for any commercial or manufacturing purposes.

The term "enclosed dwelling area," as used herein with respect to minimum size requirements, shall mean the total enclosed area within a dwelling; provided, however, that such term does not include garages or storage areas, terraces, decks, open porches, and like areas below the Base Flood Elevation. The term also does not include screened porches and decks even if the roof of such porches and decks forms an integral part of the structure of the main dwelling.

Section 2. Temporary Structures. No structure of a temporary character shall be placed upon any Lot at any time;

provided, however, that this prohibition shall not apply to Declarant's sales offices, Declarant's sales trailers, or shelters used by a contractor during the construction of a main dwelling house, it being understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on any Lot more than sixty (60) days after completion of construction.

Section 3. Outbuildings. No attached or detached tent, barn, or other similar outbuilding shall be placed on any Lot at any time, either temporarily or permanently.

Section 4. Setback Lines. The establishment of standard building setback lines for the location of houses on Lots tends to force construction of houses both directly behind and to the side of other homes with potential detrimental effects on privacy and views. In order to ensure that the location of houses will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each Lot, certain setback lines have been established on the recorded plats of the Laguna and Playa Residential Areas. Where no specific reference is indicated on said plats for building setback lines, all governmental requirements then applicable shall prevail. Setback lines as recorded on the plat must be adhered to in the location of structures within the Laguna and Playa Residential Areas. The Subassociation Design Review Committee reserves unto itself, its successors and assigns the right to control absolutely and solely the precise site and location of any dwelling or structure upon all Lots and every Lot within the Laguna and Playa Residential Areas. Such locations shall be determined only after reasonable opportunity is afforded the Lot Owner to recommend a specific placement, and in the event the agreed location is stipulated in writing in the contract of purchase from Declarant, as seller, the Subassociation Design Review Committee shall approve automatically such locations for a residence. No building or other improvement, except landscaping and decks or patios at grade, shall be located on any Lot so as to encroach upon any building setback line, nor shall any building be located on any Lot nearer than ten feet (10') to any street right-of-way line.

Section 5. Mineral Development. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any Lot. No derrick or other structures designed for the use of boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

Section 6. Prohibited Activities. No activity, whether for profit or not, shall be conducted on any Lot or within the Laguna and Playa Residential Areas which is not related to single family residential purposes, nor shall any noxious or offensive activity be carried on upon any Lot, which may tend to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. The Board and the "Subassociation Board" (as defined in Article IV hereof) shall have the sole and absolute discretion to determine whether any activity constitutes a nuisance or annoyance. Activities expressly prohibited include, without limitation, (a) the performance of work on automobiles or other vehicles upon the Lot or in driveways or streets abutting Lots, (b) the use or discharge of firearms, firecrackers or other fire works, (c) the storage of flammable liquids in excess of five gallons, or (d) other activities that may be offensive by reason of odor, fumes, dust, smoke, noise, vibration, or pollution, or that are hazardous by reason of excessive danger of fire or explosion. Additionally, there shall not be maintained any plants, animals, device, or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature that may diminish or destroy the

enjoyment of other Lots in the Laguna and Playa Residential Areas by the Owners thereof.

Section 7. Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats, or other common household pets of the domestic variety may be kept, provided that they are not kept, bred, or maintained for commercial purposes and provided that no more than two (2) of each species of animal is kept. Dogs and cats may not be tied or chained up outdoors. Dog runs are prohibited. Dogs must be kept on a leash at all times whenever they are walked or exercised within the Laguna and Playa Residential Areas.

Section 8. Fences; Walls. No freestanding wall, fence, screen, baffle, partition, or other similar structure of any kind or nature shall be erected or maintained around any Lot, Lots, or portion thereof, except fences and walls installed by Declarant, or approved by the Subassociation Design Review Committee. Nothing shall be fastened or attached to or installed upon any fence by nail, screw, or otherwise, except those attachments or installations made by Declarant during the course of construction. Fences shall not be used for hanging, drying, or airing clothing, rugs, or other materials.

Section 9. Signs. Without the written permission of the Subassociation Design Review Committee or except as may be required by legal proceedings, no sign, advertisement, billboard, streamers, flags, pennants, or any type of marketing tool shall be placed, maintained, or displayed to the public view on any Lot except one single faced sign for each Lot, advertising the properties for sale or rent, not to exceed two feet (2') by three feet (3') in size nor to exceed six (6) square feet in total area. The Subassociation Design Review Committee shall not grant permission for any other type of sign unless the erection of such sign is reasonably necessary to avert serious, demonstrable hardship to the Owner. If such permission is granted, the Subassociation Design Review Committee reserves the right to restrict the size, color, and content of such signs. The Subassociation Design Review Committee, Association, Subassociation, Declarant, or any of their assigns, shall have the right to remove any nonconforming sign, advertisement, billboard, pennants, streamers, flags, or structure placed on any Lot and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal. Notwithstanding the foregoing, Declarant shall have the right to place other signs throughout Laguna and Playa Residential Areas, including signs indicating the entrance to particular subdivisions and other signs that are appropriate for the sale and improvement of the Properties.

Section 10. Antenna. No antenna of any type shall be erected, constructed, placed, or permitted to remain upon any Lot, house, or building. Television or other antennas must be of an inside or attic type. No parabolic dish antenna will be permitted on any Lot. A communal parabolic dish may be located in Pointe San Luis for the use of residents and be available through the local cable company, when such service is available.

Section 11. Garbage Receptacles. All garbage and trash to be collected shall be placed and kept in covered containers and all such containers shall be within a four sided wooden enclosure that allows drainage of water. The wooden enclosure shall be constructed not to exceed thirty-six (36) inches in height and be fixed permanently to the ground. The exposed sides shall be stained or oiled with the same material used on the exterior of the dwelling. Location of the enclosure shall be adjacent to and facing the street and shall be within the legal property Lot lines.

Section 12. Drying of Clothes. Clothes lines outside any building shall not be permitted nor shall the drying or hanging of clothes or towels on deck rails, posts, or the like be permitted.

Section 13. Air Conditioning Units. No window air conditioning units or wall penetrating type air conditioning units shall be permitted. All air conditioning equipment, including condensing units, that is attached to the exterior surface of any structure must be suitably screened.

Section 14. Mail Boxes. Mail boxes will be provided at a central location; no other mail boxes will be permitted.

Section 15. Street Numbers. Street numbers expressed in Arabic numerals not exceeding six (6) inches in height will be affixed permanently to residential structures on the side facing the street. No lettering or other signage of any style or type shall be attached to any structure, nor will any form of free standing sign be permitted other than as provided in Section 9 of this Article I.

Section 16. Roofing Materials. Roofing shape may take any variety of form: shed, gable, or hipped. Metal, tile and built up gravelled flat roofs shall not be allowed because of the possibility of becoming dangerous during high wind conditions. Mansards, gambreled, domed, flat, and similar types of roof shapes are prohibited without the specific written approval of the Subassociation Design Review Committee. Roof colors should be in harmony with building fashion and trim materials and must be acceptable to the Subassociation Design Review Committee. The Subassociation Design Review Committee shall not approve white or light-colored roofs because of the glare they create in a marine environment. The Subassociation Design Review Committee shall review proposed roof colorings on a case-by-case basis. Accordingly, the Subassociation Design Review Committee reserves the right to make limited approvals of proposed colorings; the approval of use of any coloring on one dwelling shall not prejudice the Subassociation Design Review Committee's right to prohibit use of such color on any other dwelling. No owner may significantly change the roofing shape, roofing materials, or colors thereof, without the prior written approval of the Subassociation Design Review Committee.

Section 17. Window Frames. Window frames may be made of wood or metal. No glazing of windows or doors shall be of a reflective nature.

Section 18. Play Equipment. Outdoor play equipment must be placed in the rear yard of the Lot and be set in concrete for permanence.

Section 19. Sound Devices. No horns, whistles, bells, or other sound devices, except security systems used exclusively to protect the Lot and Improvements located thereon, shall be placed or used on any Lot or Improvements in Laguna and Playa Residential Areas. This paragraph shall not preclude the use of outdoor speakers for hi-fi, stereo, or radios if the sound level is maintained at a reasonably low level with respect to adjoining property.

Section 20. Storage. No portion of any Lot shall be used for the storage of building materials, refuse or any other materials other than in connection with approved construction. There shall be no exterior fires whatsoever except barbecue fires contained within safe portable receptacles thereof.

Section 21. Composite Lots. Any Owner of one or more adjoining Lots (or portions thereof) may, with the prior written approval of the Subassociation Design Review Committee,

consolidate such Lots or portions thereof into one building site, with the privilege of placing or constructing Improvements on such resulting site, in which case the established side building setback lines, if any, shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the plat. The front and rear setback lines of any composite Lot shall be determined by (and equal to) the most restrictive setback line of the Lot or portion of a Lot comprising the composite Lot, unless a different front and/or rear setback line is approved in writing by the Subassociation Design Review Committee. In addition, the side Lot utility easement, if any, must be abandoned and released in accordance with the applicable law. Upon such abandonment or release and upon the receipt of the written approval of the Subassociation Design Review Committee, such resulting composite building site shall thereupon be regarded as one Lot solely for purposes of constructing one single family residence thereon.

Section 22. Interior Garbage Disposal. Each residence constructed on a Lot shall be equipped with an interior garbage disposal unit, which appliance shall at all times be kept in a serviceable condition.

Section 23. Solar Collectors. No solar collector shall be installed without the prior written approval of the Subassociation Design Review Committee. Any such approved installation shall be in harmony with the design of the residence. Solar collectors shall be installed in a location not visible from the public street in front of the residence.

Section 24. Casualty Damage. Any buildings or other Improvements within Laguna and Playa Residential Areas that are destroyed partially or totally by fire, storm, or any other casualty, shall be repaired or demolished within a reasonable period of time, and the Lot and Improvements thereon, as applicable, restored to an orderly and attractive condition.

ARTICLE II DESIGN REVIEW

Section 1. Subassociation Design Review Committee. As used in this Declaration, the terms "Subassociation Design Review Committee" or "Subassociation DRC" shall mean a committee of three (3) members to review all plans or development and Improvements as may be proposed for the Properties, the powers and authorities of said Subassociation DRC being more particularly described in this Article II. The Subassociation DRC is hereby empowered with the rights and powers set forth herein, the rights of the ARC set forth in the Master Declaration and in any other declaration of covenants, conditions and restrictions for any portion of the Properties. In the event of the failure or inability to act of any member of said Subassociation DRC, the remaining member or members shall designate a successor. Notwithstanding the foregoing, Declarant shall have the right and power to appoint or remove any or all members of said Subassociation DRC or to fill any vacancy prior to the "Control Transfer Date" (as hereinafter defined). Declarant may in its discretion and at any time assign by written assignment its powers of removal and appointment with respect to said Subassociation DRC to the Subassociation, subject to such terms and conditions with respect to the exercise thereof as Declarant may impose. No member of the Subassociation DRC shall be liable to any person for decisions or failure to act in making decisions as a member of said Subassociation DRC. The approval or lack of disapproval by the Subassociation DRC shall not be deemed to constitute any warranty or representation by such Subassociation DRC, including, without limitation, any warranty relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations.

Section 2. Plan Approval. No building, wall, fence, deck, porch, pool, play equipment, driveway, parking area, landscaping, outdoor lighting, outdoor eating facility or any other type of structure or other improvement of a permanent nature shall be commenced, erected, placed, planted or altered on any Property within the Laguna and Playa Residential Areas until four (4) complete sets of design development plans and construction documents for the proposed site, building and landscape with their respective specifications have been submitted to, reviewed and approved by the Subassociation DRC or the Subassociation DRC's designated representative. Written approval of submitted plans and construction documents by a majority of the members of the Subassociation DRC or the Subassociation DRC's designated representative shall constitute the required approval by the Subassociation DRC. Plans and construction documents will be reviewed by the Subassociation DRC as to compliance with the Restrictions contained herein, restrictions contained in the Master Declaration, the Construction Guidelines, harmony of external design and site location in relation to views, surrounding structures and vegetation.

Disapproval of plans, location or specifications may be based by the Subassociation DRC upon any ground, including purely aesthetic conditions, which shall seem sufficient in the sole discretion of the Subassociation DRC. In the event approval of such plans is neither granted nor denied within thirty (30) days following receipt by the Subassociation DRC of written demand for approval, the provisions of this Section 2 shall be thereby waived, provided the entity or person submitting such plans can verify the submittal of the plans to the Subassociation DRC and the receipt of such plans by the Subassociation DRC.

A. (i) Buildings on all Laguna and Playa Lots on the bay-facing side of Termini Road shall contain not less than 800 square feet of enclosed dwelling area.

(ii) Buildings on all Laguna and Playa Lots on the gulf facing side of Termini Road shall contain not less than 1200 square feet of enclosed dwelling area.

(iii) Each Laguna and Playa residential dwelling shall include a minimum of 300 square feet of exterior wood decking built as an integral part of the structure above the Base Flood Elevation.

B. As required by the Declarant, increased minimum square footage requirements may be imposed on certain Lots if specified in the respective sales contracts and expressly stipulated in the respective deeds.

Section 3. Effect of Approval. The granting of the afore said approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the Subassociation DRC that the terms and provisions of this or the Master Declaration shall have been complied with if the Improvements are erected in accordance with the plans, specifications and plot plan submitted in accordance with Section 2 of this Article II; and such approval shall not constitute any type of waiver or estoppel either as to the persons expressing such approval or any other person in the event that the Improvements are constructed in accordance with such plans, specifications and plot plan, but, nevertheless, fail to comply with applicable requirements. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Exercise of any such prerogative by one or more members of the Subassociation DRC in their capacity as such shall not constitute action by the Declarant after the election of such Subassociation DRC members, notwithstanding that any such Subassociation DRC member may be an officer, owner or director of Declarant.

Section 4. Construction Guidelines. The Subassociation Design Review Committee may from time to time promulgate an outline of minimum acceptable construction standards with respect to any aspect of the construction or appearance of dwellings and Lots in Laguna and Playa Residential Areas; provided, however, that such outline will serve as a minimum guideline only and that the Subassociation Design Review Committee shall not be bound thereby. In order to control the quality of construction to reasonably ensure that all residential construction (including the construction of the dwelling and all other Improvements on the Lot) is constructed in accordance with (a) the plat, (b) the Master Declaration and this Declaration, (c) Galveston and other applicable governmental regulations, (d) minimum acceptable construction standards as promulgated from time to time by the Subassociation Design Review Committee, (e) Subassociation Design Review Committee regulations and requirements, and (f) the General Land Use Plan, the Subassociation Design Review Committee may conduct certain building inspections, and the Owner, in the construction of all Improvements, shall hereby be subject to such building inspections and building inspection policies and procedures as established from time to time by the Subassociation Design Review Committee. Each application made for Subassociation Design Review Committee approval shall be accompanied by a fee of Three Hundred Dollars (\$300.00) to defray expenses of the Subassociation Design Review Committee. The Subassociation Design Review Committee also shall have the authority to set reasonable fees to defray the expenses of any other inspections or re-inspections required to accomplish the duties imposed on the Subassociation Design Review Committee by this Declaration and the Master Declaration.

Section 5. Variances. The Subassociation DRC may authorize variances from compliance with provisions of this Declaration or the Construction Guidelines or other regulations and requirements as promulgated from time to time by the Subassociation DRC when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration justify a variance. Such variance must be evidenced in writing and shall become effective when signed by a majority of the members of the Subassociation DRC. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration, the Construction Guidelines or other regulations and requirements of the Subassociation DRC for any purpose except as to the particular property and particular provisions covered by the variance, nor shall the granting of any variance affect in any way the obligation of the Owner receiving the variance, or of any other Owner, to comply with all governmental laws and regulations affecting the Properties.

Section 6. Engineering and Design. Structures built on the west end of Galveston Island require extensive forethought during the building design process as well as during construction. Structures designed to withstand the forces of high wind and water are a direct by-product of sound architectural engineering principles and good construction materials and techniques that implement these principles. The design, engineering and construction recommendations in the Construction Guidelines represent preferred principles, materials and technologies for construction of Improvements within the Properties. Review of these standards is recommended before proceeding with plans for any Improvement(s) or alteration(s) to Improvements within Pointe San Luis.

Section 7. Notices of Completion and Noncompliance. Each Owner shall send a written notice of the completion ("Notice of Completion") of such Owner's construction of Improvements to the Subassociation DRC and to the Subassociation within fifteen (15)

days after completion of such Owner's construction. If, as a result of inspections or otherwise, the Subassociation DRC finds that any construction has occurred without the approval of the Subassociation DRC or has not been performed in conformity with the approved plans and specifications and plot plan, the Subassociation DRC shall notify the Owner in writing of the non-compliance, which notice ("Notice of Noncompliance") shall be given, if ever, within sixty (60) days after the Subassociation DRC receives a Notice of Completion. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance. If for any reason other than Owner's act or neglect, the Subassociation DRC fails to notify the Owner of any noncompliance within sixty (60) days after receipt by the Subassociation DRC and the Subassociation of the Notice of Completion, the Improvements constructed by such Owner on the Lot or Site shall be deemed in compliance if such Improvements were, in fact, completed as of the date of the Notice of Completion. If, however, the Subassociation DRC issues a Notice of Noncompliance, the Owner shall commence correction of the noncompliance without delay. If the Owner does not correct the noncompliance within forty-five (45) days after receipt of the Notice of Noncompliance or commence, within ten (10) days after receipt of the Notice of Noncompliance, correction of such noncompliance in the case of a noncompliance which cannot reasonably be expected to be corrected within forty-five (45) days (provided that such Owner diligently pursues correction of such noncompliance to completion), then the Subassociation Board may, at its option, record a Notice of Noncompliance against the Lot or Site on which the noncompliance exists, and may otherwise correct such noncompliance, and the Owner shall reimburse the Subassociation, upon demand, for all expenses incurred therewith, which reimbursement obligation shall be a charge on such Owner's Lot or Site and shall be a continuing lien (secured by the same lien which secures the Annual Assessments and Special Assessments, as is provided in Article V hereof). The right of the Subassociation Board of Trustees to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Subassociation Board of Trustees may have at law or in equity, or under this Declaration, to cure such noncompliance.

Section 8. No Implied Waiver or Estoppel. No action or failure to act by the Subassociation DRC or by the Subassociation Board shall constitute a waiver or estoppel with respect to future action by the Subassociation DRC or Subassociation Board with respect to the construction of any Improvements within the Properties. Specifically, the approval by the Subassociation DRC or Subassociation Board of any construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar construction or any similar proposals, plans, specifications or other materials submitted with respect to any other construction by such Owner or by other Owners.

Section 9. Appeal to Subassociation Board. If the Subassociation DRC denies or refuses approval of the proposed Improvement or modification to Improvements on any Lot or Site, or if the Subassociation DRC gives any Notice of Noncompliance, the Owner may appeal to the hereinafter described "Subassociation Board" (provided, however, that if the denial or refusal is based upon failure to comply with the provisions of the Master Declaration, the appeal shall be made to the applicable Subassociation's Board, and that in such event the Subassociation Board shall have all the powers and obligations with respect to such appeals as are provided for the Subassociation Board in this Section 9) by giving written notice of such appeal to the Subassociation and the Subassociation DRC within twenty (20) days after such denial or refusal or receipt of the Notice of Noncompliance by the Owner, as applicable. The Subassociation Board shall hear the appeal with reasonable promptness after reasonable notice of such hearing to the Owner and the Subassociation DRC and shall decide,

with reasonable promptness, whether or not the proposed improvement or modification of Improvements shall be approved or whether or not there has been such noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same, as applicable. The decision of the Subassociation Board shall be final and binding on all persons.

Section 10. Maintenance. It shall be the responsibility of the Owner during construction to remove in a timely manner all trash, lumber, and debris of any other description associated with such construction. If, in the opinion of the Subassociation DRC, Owner fails to comply with the preceding sentence, the Subassociation DRC shall have the option to cause such debris to be removed, and the cost of such work shall be charged to the Owner and be payable upon demand to the Subassociation DRC. Any amounts owing to the Subassociation DRC hereunder shall be secured by the lien described in Article V hereof.

Section 11. No Volatile Material Storage. No tanks for the storage of propane, butane or similar flammable gases will be permitted on the Properties, except those connected to portable barbecue grills.

Section 12. Obligation to Maintain. Weeds, rubbish, debris or other materials shall not be placed or be permitted to accumulate upon any portion of the Properties in a manner which, in the opinion of the Subassociation DRC, renders the Property unsanitary, unsightly or offensive. In the event of the failure of an Owner to comply with any of the foregoing requirements, the Subassociation or its authorized agents shall have the right (but not the obligation) to enter upon the offending property and remove weeds, rubbish or other materials and do all things necessary to place such property in compliance with this Section 12, including the installation of landscaping. The Owner of an offending Lot or Site shall be personally liable for all costs and expenses incurred by the Subassociation in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within five (5) days after receipt of written demand therefor. Any amounts owing to the Subassociation DRC hereunder shall be secured by the lien described in Article V hereof.

Section 13. Signage. Declarant has developed a "Master Signage Program" (currently contained in Part V of the Construction Guidelines of the Association) that provides for the design, placement, height, color, size, form, materials, message, symbols and lettering on all signs to be erected within any and all areas in Pointe San Luis designated as Open Space Area. There will be no exceptions to these standards and no requests for variances will be accepted or considered. Signage placed within the Properties not designated as Open Space Area shall be subject to review and approval of the Subassociation DRC for compliance with the provisions of the Construction Guidelines, this Declaration and the Master Declaration.

Section 14. Garage. No enclosed dwelling area will be permitted on any level below the Base Flood Elevation, except that three hundred (300) square feet of enclosed non-dwelling area for use as garage or storage space will be permitted below the Base Flood Elevation if walls, screens, or trellis materials used for this purpose are affixed to the main structure or pilings with fasteners that allow breakaway in severe weather conditions. No major appliance (washers, dryers, hot water heaters, refrigerators, stoves, etc.) will be permitted for use or storage within garage or storage space located below the Base Flood Elevation.

Section 15. Fences. No fences, screens, barricades, bollards, partitions, or walls of any kind, size or character may be construed, without the prior written approval of the Subassociation DRC.

Section 16. Exterior Materials. The Subassociation Design Review Committee invites innovative site, architectural and landscape design. The intent of this Section is to preserve and enhance property values by insuring a reasonable degree of consistency throughout Pointe San Luis. To ensure such consistency, the Subassociation Design Review Committee reserves the right to evaluate the appropriateness of any material to be used on an exterior wall or trim surface of a dwelling in a Laguna and Playa Residential Area. Exterior surfaces which are or look like wood must be stained or oiled. The Subassociation Design Review Committee shall not permit any pigmented paint (which does not include semi-transparent stain) to be used on exterior walls in Laguna and Playa Residential Areas. The Subassociation Design Review Committee will, however, allow use of pigmented paint stains for application to trim, so long as they are within the range of colors commonly referred to as "earth tones."

No Owner, other than Declarant, shall apply any significant amount of stain, oil, or paint to the exterior surface of a dwelling without prior approval from the Subassociation Design Review Committee. If application of the proposed stain, oil, or paint would cause a substantial change in the appearance of the exterior of the dwelling, the Owner seeking approval from the Subassociation Design Review Committee must submit to the Subassociation Design Review Committee a sample of the substance applied to the type of wood to which the Owner proposes to apply the substance.

Section 17. Exterior Structures. Except for an allowable area of three hundred (300) square feet of construction below the main dwelling structure consisting of "breakaway" type walls, no exterior walls, fences, baffles, partitions or other like structures intended to partially or fully enclose any area below the Base Flood Elevation on any portion of a Lot shall be permitted.

Section 18. Driveways. Each Lot will be permitted one (1) driveway approach that must access the Lot from the street that is the official mailing address for the Lot. Prior to occupancy of any dwelling unit, each Lot Owner shall provide space for parking two (2) automobiles off the street and a driveway of not less than ten (10) feet in width at any point which connects the parking spaces to the street pavement. Driveway aprons connecting the edge of street paving to parking areas must be constructed to conform in shape to existing front Lot swales. No alteration, blockage or other impediment of established front or side Lot drainage flow patterns will be permitted. The driveway and parking spaces must be paved with a hard surfaced material approved by the Subassociation Design Review Committee. The Subassociation Design Review Committee shall not approve surfaces composed of gravel, crushed shell, iron ore, crushed granite, or other similar materials.

Section 19. Drainage. Where necessary, drainage structures under private driveways shall accommodate a culvert having a net drainage opening area of sufficient size to permit the free flow of water without backwater. The minimum size culvert shall be eighteen inches (18") in diameter and must be placed so as not to impede drainage. Culverts are to be supplied by the Lot Owner and will be installed by the City of Galveston Public Works Department. Said culvert installation will not relieve the Owner of responsibility for proper placement that does not impede drainage. If any culvert impedes the flow of water or retains water for a period of more than forty-eight (48) hours, the Subassociation Design Review Committee shall have discretion to contact the Lot Owner and the City of Galveston Public Works Department to have any culvert reinstalled, so as to comply with the requirements of this Section 19.

Section 20. Electrical Distribution System. An electrical distribution system shall serve all of the Lots in the Laguna and

Playa Residential Areas. The Owner of each Lot in a Laguna and Playa Residential Area shall pay for, furnish, install, own, and maintain (in accordance with the requirements of the local governing authorities and the National Electric Code) the service cable and meter loop appurtenances from the point of the electric company's meter on the customer's structure to the point of attachment at such company's energized secondary junction boxes. The point of attachment shall be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Electric service to each Lot in a Laguna and Playa Residential Area shall be uniform in character and must be wired for total electric service. No Owner or occupant of a Lot may place or operate on any Lot any light fixture or other electric powered equipment that reasonably would be expected to cause offense to the Owner or occupant of any other Lot. The Subassociation Design Review Committee, or any agent appointed by the Subassociation Design Review Committee, shall be the final arbitrator in the resolution of any dispute over such matters.

Section 21. Construction Timetable. After the plans for construction have been approved by the Subassociation Design Review Committee, the Property Owner or builder shall have a maximum of six (6) months following the commencement of construction in which to complete the exterior construction, which shall be deemed complete when the exterior fascia and trim on the structure has been applied and finished and when all construction materials and debris have been cleaned up and removed from the site. Removal of materials and debris shall not take in excess of thirty (30) days following the completion of the exterior.

Section 22. Sewage Disposal. Prior to the occupancy of any residence on a Lot in the Laguna and Playa Residential Areas, proper and suitable provisions shall be made for the disposal of sewage by connection with the sewer mains provided in the subdivision. No sewage shall be emptied or discharged into the waters of the gulf or bay or the Wetlands, beach, or shorelines thereof associated with Pointe San Luis, nor may any sewage disposal system be used unless it is such a system as is provided within the subdivision. No septic tanks may be installed or maintained in the Laguna and Playa Residential Areas whether for permanent or for temporary use. Each Lot Owner is responsible for the extension and cost of the connection line from the residence to an outside perimeter of the Lot as designated by Declarant or a governmental authority, as the case may be.

Section 23. Obstruction of Sight. No plant or other object shall be placed, planted, or permitted to remain on any corner Lot if it obstructs sight lines at elevations between two (2) and six (6) feet above the surface of the streets within the triangular area formed by the right-of-way lines of the streets involved and a line running from such right-of-way lines at points twenty-five feet (25') from the junction of the street right-of-way lines.

Section 24. Grading and Drainage. Removal of dirt from any Lot is expressly prohibited, except as may be necessary in conjunction with landscaping, and no fill material that will significantly change the finish grade of any Lot shall be placed on such Lot or other property without prior approval in writing from the Subassociation Design Review Committee. Filling in any wetland or Open Space Area or Common Area is strictly forbidden. To protect the natural beauty of the sand dunes located within Pointe San Luis, no one shall be permitted to remove, reduce, alter, cut down, excavate, or lower any sand dune within Pointe San Luis; the Subassociation Design Review Committee shall not grant variances from the requirements of this sentence.

Section 25. Landscaping. Within sixty (60) days after completion of construction on a Laguna and Playa Lot, the Owner thereof shall plant and otherwise landscape the yard. All front, side and rear yards extending to the property lines that are not otherwise utilized as paved driveways, decks, or patio areas must be planted. Not more than eighty percent (80%) of the landscaping on any Lot or composite Lot may be grass. The remaining twenty percent (20%) must be covered by trees, shrubs, vines and low-growing and groundcover plants, planted in bed areas, as approved by the Subassociation Design Review Committee. A minimum of five (5) trees shall be planted on each Lot. The staked trees must be at least five feet (5') in height at planting and have been in a container not less than 5 gallons in size. If palm trees are to be used, such trees shall not be less than three (3) trunk feet when planted. No existing trees may be removed without the written approval of the Subassociation Design Review Committee, unless located within ten (10) feet of the approved site for such building. Sculpture, gravel and rock gardens, fountains, bird baths, bird houses, buoys, anchors, and other similar yard decorations are not permitted without the prior written approval of the Subassociation Design Review Committee, unless such decorations are not visible from the street in front of the Lot.

ARTICLE III SUBASSOCIATION COMMON AREAS

It is the intent of the Declarant to maintain and enhance (or to convey to the Subassociation), the Common Areas, which shall include all of the Open Space Areas. It is the further intent and purpose of these restrictions and covenants to afford and enhance recreation opportunities, preserve historical sites and implement the General Land Use Plan for development.

Section 1. Reservations. The Declarant expressly reserves to itself, its successors and assigns, every reasonable use and enjoyment of the Common Areas in a manner not inconsistent with the provisions of this Declaration.

Specifically, and without limiting the generality of the foregoing, the Declarant reserves unto itself, its successors and assigns the right to go on, over and under the ground to erect, maintain and use electric poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, sewer, water or other public conveniences or utilities in the Common Areas. These reservations and rights expressly include the right to cut trees and shrubs, grade the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations and tanks within the Common Areas. Such rights may be exercised by a licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 2. No Dumping. No dumping of trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon any Common Area, except as is temporary and incidental to the bona fide improvement of the area in a manner consistent with its classification as a Common Area.

ARTICLE IV
THE POINTE SAN LUIS LAGUNA AND PLAYA
PROPERTY OWNERS' SUBASSOCIATION, INC.
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot in a Laguna and Playa Residential Area, or any part thereof which is subject to assessment (a "Laguna and Playa Owner", which term shall include the Declarant) shall be a member of the Pointe San Luis Laguna and Playa Property Owners' Subassociation, Inc. (the "Subassociation"), a Texas non-profit corporation formed or to be formed. Declarant shall be a perpetual member of the Subassociation unless it resigns its membership, thereby relinquishing all of its voting rights.

Section 2. Voting Rights. The Subassociation shall initially have two classes of voting membership and each Laguna and Playa Owner shall have votes as follows:

Class 1: The Class 1 members shall be all Laguna and Playa Owners, excluding Declarant, and, except for the hereinafter described voting rights of owners of composite Lots, shall be entitled to one vote for each Laguna and Playa Lot, regardless of how many individuals may own an interest in a single Laguna and Playa Lot. The Subassociation Board shall determine whether the Owner of a composite Lot approved by the Subassociation DRC shall be entitled to exercise more than one vote, which additional vote may represent a fractional vote, with respect to the portion of any Lot(s) comprising a portion of a composite Lot.

Class 2: The Class 2 members shall be Declarant who will at all times that such parties are Laguna and Playa Owners be entitled to three (3) votes for each Laguna and Playa Lot owned by Declarant. The Class 2 membership shall cease and be converted to Class 1 membership on December 31, 1999, or on the date Declarant resigns its Class 2 membership, whichever first occurs (the "Control Transfer Date"). Since a Member's voting rights are appurtenant to Lot ownership, Declarant shall be considered a separate member for each Lot owned by Declarant.

Any Laguna and Playa Owner who is delinquent in the payment of any assessment or other monetary obligation to the Subassociation or the Association, as set forth herein or in the Master Declaration, shall not be entitled to vote during any period in which such assessment or obligation is delinquent.

Section 3. Agents. No person serving on the Board of Directors of the Subassociation (the "Subassociation Board") shall be entitled to compensation for services performed; provided, however, that the Subassociation Board may employ land planners, engineers, architects, landscape architects, management companies, accountants, bookkeepers, attorneys or other consultants to assist the Board in carrying out its duties hereunder, and the Subassociation shall pay such consultants for services rendered to the Subassociation Board. Except for liability by reason of gross negligence or willful misconduct, no member of the Subassociation Board shall be personally liable for any actions committed in the scope of services performed as a member of the Subassociation Board.

Section 4. Subassociation's Rights and Duties. The Subassociation has been formed to further the common interest of the Laguna and Playa Owners (sometimes herein referred to as "Laguna and Playa Members"). The Subassociation, acting through the Subassociation Board or persons to whom the Subassociation Board has delegated such powers shall have the rights, duties and powers set forth in its Articles of Incorporation and Bylaws, including the power to maintain, improve and enhance the Common

Areas. The Subassociation shall have all of the ordinary powers and rights of a Texas non-profit corporation formed under the Texas Non-Profit Corporation Act, including, without limitation, the right to enter into agreements and to perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Subassociation or for the peace, health, comfort, safety and general welfare of the Laguna and Playa Owners of Property and their guests, subject only to such limitations upon such powers as may be set forth in the Master Declaration, this Declaration, the Articles of Incorporation or Bylaws. The Subassociation shall also have the power to do any and all lawful things which may be authorized, required or permitted to be done under this Declaration and any and all acts which may be necessary or desirable for fulfilling the purposes of this Declaration, the Articles of Incorporation and Bylaws. The Subassociation also shall have the power to transfer to the Association any of the rights, powers, obligations or authorities it may have under this Declaration, and to accept transfers from the Association of any rights, powers, obligations, or authorities the Association may have with respect to Laguna and Playa Residential Areas.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Obligation To Pay Assessments. Each Laguna and Playa Owner, including Declarant, by acceptance of a deed for any Lot in a Laguna and Playa Residential Area or portion thereof, whether or not it shall be so expressed in such deed, or by ratification of this Declaration, is deemed to covenant and agree to pay to the Subassociation: (i) annual assessments or charges ("Subassociation Annual Assessments"); and (ii) special assessments for capital improvements ("Subassociation Special Assessments"), such assessments to be established and collected as hereinafter provided. The Subassociation Annual Assessments and Subassociation Special Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and constitute a continuing Vendor's Lien, and contractual lien, upon the portion of the Lot against which each such assessment or any other charge is made.

Section 2. Purpose of Assessments. The assessments levied by the Subassociation shall be used for the purpose of promoting the health, safety and welfare of the Owners and tenants of the Laguna and Playa Residential Areas and in particular for the improvements and maintenance of the Common Areas, and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, and for the enforcement of restrictions upon the use of land within the Laguna and Playa Residential Areas.

Section 3. Maximum Subassociation Annual Assessments. In order to provide a fund to be applied for the purposes herein specified, Declarant does hereby subject the Laguna and Playa Residential Areas (exclusive of any area within a Public Roadway, any area dedicated and accepted by local authorities or Common Areas) to a Subassociation Annual Assessment. The initial amount of such Subassociation Annual Assessment shall be an amount fixed by the Subassociation Board of Directors of the Subassociation not to exceed five hundred dollars (\$500) for each lot, it being intended that the Subassociation Board will for each year fix the Subassociation Annual Assessment at an amount estimated by the Subassociation Board to be required in order that the funds produced thereby will approximate the expenditures of such funds for the purposes herein specified. For years subsequent to 1990, the Subassociation Annual Assessment may be increased, if necessary, as follows: The Subassociation Board may determine and certify that the then current Subassociation Annual Assessment is not sufficient to meet reasonable expenses of the Association for the

upcoming year and, at a meeting called for such purpose, by majority vote of all Directors present in person, may vote to increase the Subassociation Annual Assessment by an amount not to exceed ten percent (10%) of the previous year's Subassociation Annual Assessment. The Subassociation Annual Assessment shall not be increased more than once in any calendar year. The right to increase the maximum Subassociation Annual Assessment shall be cumulative for periods not exceeding three (3) years. By way of explanation, the maximum permissible Subassociation Annual Assessment for any year shall be determined by increasing the Subassociation Annual Assessment for the fourth preceding year by a factor of ten percent (10%) with respect to each of the three preceding years and by a factor of 10% for the upcoming year (as aforesaid), notwithstanding that the Subassociation Annual Assessment for any of those preceding years may not have increased by ten percent (10%) over the Annual Assessment for the year preceding such year.

Section 4. Subassociation Special Assessments for Capital Improvements. In addition to the Subassociation Annual Assessments authorized by Section 3 of this Article V and the Subassociation Special Assessment authorized by Section 5 of Article VI, the Subassociation may levy in any assessment year a Subassociation Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part (a) the cost of any addition, construction, reconstruction, repair or replacement of a capital improvement, landscaping, monuments or signs located in the Common Areas; or (b) general maintenance and operational expenses which require an increase in the Subassociation Annual Assessment of more than ten percent (10%) of the previous year's maximum Subassociation Annual Assessment permitted hereunder, provided that any Subassociation Special Assessment imposed under this Section 4 shall have the consent of not less than two thirds (2/3) of the votes of each class of Laguna and Playa Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 of this Article V shall be mailed (by U.S. First Class Mail) to all Laguna and Playa Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such called meeting, the presence of Laguna and Playa Owners or of proxies entitled to cast fifty percent (50%) of the votes of each class of Laguna and Playa Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Reimbursement Assessments. Any expenses of the Subassociation occasioned by the conduct of a Laguna and Playa Owner or by the family, tenants, agents, guests or invitees of any Laguna and Playa Owner may be specially assessed against such Laguna and Playa Owner and such Laguna and Playa Owner's Lot, which assessment is hereinafter referred to as the "Reimbursement Assessment." The Reimbursement Assessment provided for in this Section 6 shall be levied by the Subassociation Board and the payment thereof enforced in the same manner as the payment of Annual Assessments.

Section 7. Rates of Assessment. Subassociation Annual Assessments and Subassociation Special Assessments on all Laguna and Playa Lots, whether or not owned by the Declarant, shall be fixed at uniform rates per Lot; provided, however, that the Owners of composite Lots may become obligated to pay a partial assessment (annual and/or special) for the portion of any Lot

which has been added to another Lot to form the composite Lot, if said partial assessment is levied by the Subassociation Board. If levied by the Subassociation Board, any partial assessment shall result in the Owners of composite Lots paying an equitable share of the total assessments levied by the Subassociation Board based upon the size of the composite Lots.

Section 8. Date of Commencement of Subassociation Annual Assessments - Due Dates. The Subassociation Annual Assessments provided for herein shall commence as to each portion of the Laguna and Playa Residential Areas subject to assessment on January 1 or such other date of any year hereafter designated by the Subassociation Board in its discretion, and shall become due and payable on such date for such year. The assessments for each year thereafter shall become due and payable in advance on the first day of January of each year unless the Subassociation Board establishes some alternative period of payment (e.g., monthly, quarterly or semi-annually). The Subassociation Board shall fix the Subassociation Annual Assessment against the Laguna and Playa Residential Areas at least thirty (30) days in advance of each Subassociation Annual Assessment; provided, however, that the failure by the Subassociation Board to fix a Subassociation Annual Assessment for any year shall not be deemed to be a waiver with respect to any other provisions of this Declaration or a release of the liability of any Owner to pay Subassociation Annual Assessments, or any installment thereof, for that or any subsequent year. In the event of such failure, each Laguna and Playa Owner shall continue to pay the Subassociation Annual Assessment established for the previous year until the new Subassociation Annual Assessment is established by the Subassociation Board. The new Subassociation Annual Assessment established by the Subassociation Board shall be applied retroactively to the commencement of the then current assessment year and the deficit, if any, shall be paid within thirty (30) days after receipt of a statement therefor. Written notice of Subassociation Annual Assessments and Subassociation Special Assessments shall be sent to every Laguna and Playa Owner subject thereto. The due date of any Subassociation Special Assessment shall be fixed in the resolution authorizing such Subassociation Special Assessment.

Section 9. Funding of Subassociation Deficits. In the event that the "Actual Operating Expenses" (as hereinafter defined) incurred for any fiscal year or part thereof of the Subassociation exceed the aggregate of the Annual Assessments payable during such period, less any portion thereof that is deposited, or budgeted for deposit, in any reserve fund of the Subassociation during such period, then the Declarant may elect to fund such operating deficit as a non-refundable contribution ("Contribution") to the Subassociation or a loan ("Deficit Loan") to the Subassociation. The Declarant shall elect whether to treat the funding of such deficit as a Contribution or Deficit Loan prior to the time any required funds are delivered to the Subassociation by written notice of Declarant's election to the Subassociation Board. If Declarant elects to treat the advance as a Deficit Loan, the Deficit Loan shall bear interest at a reasonable rate, as determined by the Subassociation Board, and shall be repayable on terms and conditions approved by the Subassociation Board.

For purposes of this Section 9, the term "Actual Operating Expenses" shall mean those expenditures reasonably necessary for the normal maintenance and operation of the Laguna and Playa Residential Areas (including, without limitation, any amounts required to be paid on any Deficit Loan) but shall not include (i) capital expenditures (determined in accordance with generally accepted accounting principles); (ii) any amounts paid into any reserve fund of the Subassociation; or (iii) prepaid items, inventory items or similar expenses that are attributable to periods after such fiscal year or part thereof.

Section 10. Effect of Non-Payment of Assessments - The Personal Obligation of the Owner: The Lien: Remedies of Subassociation. If assessments are not paid on the date when due and payable as specified herein, then such assessments shall be delinquent and shall, together with interest thereon (at the rate stated below), reasonable attorneys' fees, court costs and other costs of collection thereof, become a continuing lien on the Lot as well as the personal obligation of the then Owner. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date until paid at the maximum rate permitted by Texas law, and the Subassociation may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 11. Enforcement of Lien. In order to secure the payment of the Subassociation Annual Assessments and Subassociation Special Assessments and other charges and assessments hereby levied, a vendor's (purchase money) lien for the benefit of the Subassociation shall be and is hereby reserved in the deed from the Declarant to the purchaser of each Lot, or portion thereof, which lien shall be enforceable through appropriate judicial and non-judicial proceedings by the Subassociation. As additional security for the payment of the Subassociation Annual Assessments and Subassociation Special Assessments and other charges and assessments hereby levied, each Laguna and Playa Owner of a Lot, or portion thereof, by such party's acceptance of a deed thereto, hereby grants the Subassociation a contractual lien on such portion of the Lot which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property Code (and any successor statute or amendment thereto); and each such Owner hereby expressly grants the Subassociation a power of sale in connection therewith. The Subassociation shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Subassociation by means of a written instrument executed by the President or any Vice President of the Subassociation and filed for record in the Official Public Records of Real Property of Galveston County, Texas. In the event that the Subassociation has determined to nonjudicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Subassociation shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale not less than twenty-one (21) days prior to the date on which said sale is scheduled by posting such notice through the U.S. Postal Service, postage prepaid, registered or certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association. If required by law, the Subassociation or Trustee shall also cause a copy of the Notice of Trustee's Sale to be recorded in the Official Public Records of Real Property of Galveston County, Texas. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Subassociation in connection with such default, including reasonable attorneys' fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and, third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any portion of the Lot foreclosed on and each occupant of any Improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of

forcible detainer and the issuance of a writ of restitution thereunder.

In the event of nonpayment by an Owner of any Subassociation Annual Assessments or Subassociation Special Assessments or other charge or assessment levied hereunder, the Subassociation may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon ten (10) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 11 to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sale by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property Code hereafter, the President or any Vice President of the Subassociation, acting without joinder or consent of any other Owner or mortgagee or other person or entity may, by amendment to this Declaration filed in the Official Public Records of Real Property of Galveston County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

Section 12. Notice of Lien. In addition to the right of the Association to enforce the Subassociation Annual Assessments, Subassociation Special Assessments and other charges or assessments levied hereunder, the Subassociation may file a claim or lien against the Lot or Lots of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of collection which have accrued thereon, (c) the legal description and street address of the Lot or Lots against which the lien is claimed and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Subassociation or other duly authorized agent of the Subassociation. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Subassociation shall execute and record an instrument releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Subassociation Board to cover the preparation and recordation of such release of lien instrument.

Section 13. Liens Subordinate to Mortgages. The liens described in this Article V and the superior title herein reserved shall be deemed subordinate to a first lien or other liens of any bank, insurance company, savings and loan association, university, pension and profit sharing trusts or plans, or other bona fide, third party lender, including Declarant, which may have heretofore or may hereafter lend money in good faith for the purchase or improvement of any Laguna and Playa Lot and any renewal, extension, rearrangement or refinancing thereof (but shall not be deemed subordinate to any constitutional or statutory rights arising out of a subsequent designation of a Lot, or portion thereof, as a homestead). Each such mortgagee of a mortgage encumbering any Lot who obtains title to such Lot pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall take title to such Lot free and clear of any claims for unpaid Subassociation Annual Assessments, Subassociation Special Assessments or other charges or assessments against such Lot which accrued prior to the time such holder acquires title to such Lot. However, such mortgagee shall be liable for any Subassociation Annual Assessments, Subassociation Special Assessments or other charges or assessments there after becoming due and shall not take title free from the lien thereof. Any other sale or transfer of Lots shall not affect the Subassociation's lien for Subassociation Annual Assessments and Subassociation Special Assessments or other

charges or assessments. The Subassociation shall make a good faith effort to give each such mortgagee thirty (30) days advance written notice of the Subassociation's proposed foreclosure of such lien in the office of such mortgagee by prepaid United States registered or certified mail, return receipt requested, and shall contain a statement of delinquent Subassociation Annual Assessments and Subassociation Special Assessments or other charges or assessments upon which the proposed action is based; provided, however, that the Subassociation's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Subassociation pursuant to the provisions of this Article V.

Section 14. Exempt Property. The following property subject to this Declaration shall be exempt from assessments and all other charges created herein:

(a) All the Laguna and Playa Residential Areas dedicated to and accepted by a local public authority;

(b) Common Area; and

(c) All property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas;

provided, however, that no land or Improvements devoted to dwelling use shall be exempt from the Annual Assessments, Special Assessments or any other charges or assessments.

ARTICLE VI DUTIES AND OBLIGATIONS WITH RESPECT TO COMMON AREA

Section 1. Damage by Owners. In the event that the need for maintenance or repair of a Common Area is caused through the willful or negligent act of a Laguna and Playa Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall constitute a Reimbursement Assessment.

Section 2. Common Area Maintenance. The Subassociation shall maintain, or provide for the maintenance of, the Common Area and all Improvements thereon in good order and repair. The Subassociation shall provide all necessary landscaping and gardening, properly maintain and periodically replace when necessary the trees, shrubs, grass and other vegetation originally placed by Declarant in the Common Areas.

Section 3. Property Taxes and Assessments. To the extent not assessed to or paid directly by the Laguna and Playa Owners, the Subassociation shall pay all real and personal property taxes and assessments levied upon any portion of the Common Areas or other property owned by the Subassociation.

Section 4. Insurance. The Subassociation shall keep all Improvements and fixtures of the Common Areas, after it receives record title thereto, insured against loss for the full insurable replacement cost thereof, and may obtain insurance against such other hazards as it may deem desirable. The Subassociation may also insure any other property whether real or personal, owned by the Subassociation, against loss and such other hazards as the Subassociation may deem desirable, with the Subassociation as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Areas shall be written in the name of, and the proceeds thereof shall be payable to, the Subassociation. Premiums for all insurance carried by the Subassociation are to be paid from the assessments made by the Subassociation. Insurance proceeds shall be used by the Subassociation for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as hereinafter provided.

The Subassociation shall have the power to and shall obtain comprehensive public liability insurance, in such limits as it shall deem desirable, and Workmen's Compensation Insurance and other liability insurance as it may deem desirable, insuring each Laguna and Playa Owner and the Subassociation, Subassociation Board of Directors and Managing Agent, if any, from liability in connection with the Common Areas, the premiums for which are common expenses to be paid from the assessments made against the Laguna and Playa Owners. During such time as the Declarant owns the Common Areas the Declarant shall be responsible for all increases in the premiums of such liability insurance which are attributable to the Common Areas.

Section 5. Replacement or Repair of Subassociation Property. In the event of damage to or destruction of any property of the Subassociation, the Subassociation shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Subassociation, by majority vote of the Subassociation Board, may make a Subassociation Special Assessment against all Laguna and Playa Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Subassociation Annual Assessments or Subassociation Special Assessments made against such Laguna and Playa Owners.

ARTICLE VII POWERS AND AUTHORITY OF THE SUBASSOCIATION

Section 1. Right of Entry. Without in any way limiting the generality of the foregoing, the Subassociation shall have the power at any time, and from time to time, without liability to any Owners, to enter upon any Lot in a Laguna and Playa Residential Area for the purpose of enforcing any and all provisions of this Declaration. The Subassociation shall also have the power from time to time, and in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to maintain actions to enjoin any breach or threatened breach of this Declaration, and to enforce, by mandatory injunction or otherwise, all of the provisions of this Declaration.

Section 2. Vegetation, Reptile, Rodent and Fire Control. In order to implement effective insect, reptile, rodent and fire control, the Declarant reserves for itself and the Subassociation and its agents the right to enter upon any Lot in a Laguna and Playa Residential Area on which a structure has not been constructed and upon which no landscaping plan has been implemented (with prior written approval of the Subassociation DRC for such plan), such entry to be made by personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the DRC detracts from the overall beauty, setting and safety of Pointe San Luis. The cost of this activity shall be paid by the Owner of such Lot and the Owner's obligation to pay same shall be secured by the lien provided for in Article V hereof. Such entrance for the purpose of mowing, cutting, clearing or pruning shall not be deemed a trespass. The Declarant and its agents may likewise enter upon any Lot in a Laguna and Playa Residential Area to remove any trash which has collected on such Lot without such entrance and removal being deemed a trespass. The provisions in this paragraph shall not be construed as an obligation on the part of the Declarant or the Subassociation to mow, clear, cut or prune any Lot nor to provide garbage or trash removal services.

**ARTICLE VIII
SUBASSOCIATION RULES**

Section 1. Adoption, Amendment and Repeal. The Subassociation may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations, to be known as "the Subassociation Rules", governing, among other things:

- A. Use of the Common Areas;
- B. Collection and disposal of refuse;
- C. Future use of any closed circuit or cable television system;
- D. Signs; and
- E. Minimum standards of maintenance of Lots and Improvements constructed thereon.

Section 2. Power To Enforce Subassociation Rules. The Subassociation shall have the power to enforce the Subassociation Rules and shall take such actions the Subassociation Board deems necessary or desirable to cause such compliance by each Laguna and Playa Owner and each "Related User" (defined herein as a Laguna and Playa Owner's tenant, guest, invitee or contract purchaser who occupies the Laguna and Playa Owner's Lot). Without limiting the generality of the foregoing, the Subassociation shall have the power to enforce the Subassociation Rules by any one or more of the following means: (i) by entry upon any Lot after notice and hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without notice [written or oral] to the Laguna and Playa Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the Improvement situated thereon by the Laguna and Playa Owner or any other person), without liability by the Subassociation to the Laguna and Playa Owner thereof for the purposes of the enforcement of the Subassociation Rules; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the Subassociation Rules, by mandatory injunction or otherwise; (iii) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of the Subassociation Rules; (iv) by exclusion, after notice and hearing, of any Laguna and Playa Owner or Related User from use of any recreational facilities within the Common Areas during and for up to sixty (60) days following the breach of the Subassociation Rules, unless the breach is a continuing breach in which case such exclusion may continue for so long as such breach continues; (v) by suspension, after notice and hearing, of the voting rights of any Laguna and Playa Owner during and for up to sixty (60) days following any breach by such Laguna and Playa Owner or a Related User of a provision of the Subassociation Rules, unless the breach is a continuing breach in which case such suspension may continue for so long as such breach continues; (vi) by levying and collecting, after notice and hearing, a Reimbursement Assessment against such Laguna and Playa Owner for breach of the Subassociation Rules; (vii) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties, established in advance in the Subassociation Rules, from any Laguna and Playa Owner or Related User for breach of the Subassociation Rules by such Laguna and Playa Owner or Related User; and (viii) by taking action itself to cure such violation and to charge the expenses thereof, if any, to such violating Laguna and Playa Owner and Related User.

Before the Subassociation Board may invoke the remedies provided above, it shall give notice of such alleged violation to the Laguna and Playa Owner by registered mail and afford the

Laguna and Playa Owner a hearing. If, after the hearing, a violation is found to exist, the Subassociation Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues may be deemed a separate violation. Failure of the Subassociation to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of its right to take enforcement action thereafter or upon a subsequent breach or default.

Section 3. Restriction of Use. The Subassociation Rules may, without limitation and to the extent deemed necessary by the Subassociation, in order to preserve the benefits of the Common Areas for all Laguna and Playa Owners and their families, invitees, licensees, lessees and guests, restrict and govern the use of the Common Areas by any guest, by any Laguna and Playa Owner, by the family of such Laguna and Playa Owner, or by an invitee, licensee or lessee of such Laguna and Playa Owner; provided, however, that with respect to use of Common Areas, the Subassociation Rules may not discriminate between Laguna and Playa Owners and the families and lessees of Laguna and Playa Owners; provided further that the Subassociation Rules may distinguish between Laguna and Playa Owners and Owners of other portions of the Properties.

Section 4. Restrictions and Limitations. The Subassociation Rules may include with respect to the Common Area, but not the public streets adjacent thereto:

- A. Parking restrictions and limitations on and adjacent to such areas;
- B. Limitations upon vehicular travel;
- C. The type or types of vehicles or motorized machinery which may be permitted to be used in the Common Areas.

ARTICLE IX RIGHTS OF DECLARANT

Section 1. Declarant's General Rights. Declarant shall have, retain and reserve certain rights as herein set forth with respect to the Open Space Areas and other portions of the Properties and the Subassociation from and after the date hereof until the earlier to occur of (i) the Control Transfer Date or (ii) Declarant's written notice to the Association of Declarant's termination of the rights described in this Article IX pursuant to the provisions of Section 7 of this Article IX. The rights and reservations of Declarant hereinafter set forth shall be deemed excepted and reserved in each conveyance of land by Declarant to an Owner whether or not specifically stated therein and in each deed or other instrument by which any land within the Open Space Area is conveyed by Declarant. The rights, reservations and easements hereinafter set forth shall be prior and superior to any other provisions of this Declaration and, prior to the Control Transfer Date, may not, without the Declarant's prior written consent, be modified, amended, rescinded or affected by any modification of this Declaration. Declarant's consent to any one such amendment shall not be construed as consent to any other or subsequent amendment.

Section 2. Construction of Improvements. The Declarant, its successors and assigns may, but shall not be obligated, undertake the work of constructing or modifying any Improvements in Open Space Areas in the course of completing the development of the Properties. The completion of such Improvements is essential to the establishment and welfare of the Properties as a complementary mixed use community. In order that the work may be completed and the Properties be established as rapidly as

possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant or its contractors or subcontractors, from doing whatever is reasonably necessary or advisable in connection with the completion of the work; or

(b) Prevent Declarant or its representatives from erecting, constructing, maintaining, altering or replacing on any Site owned by Declarant or within the Open Space Areas, such structures (including, without limitation, model homes, storage areas, temporary buildings and offices for construction, sales, resales or leasing purposes or similar facilities on any Property owned by the Declarant or the Association) as may be reasonably necessary for conducting its business or completing the work; or

(c) Prevent Declarant or its representatives or assigns from maintaining a sign or facility on any Site owned by the Declarant or within the Open Space Areas, as may be necessary for the sale, lease or disposition of the Properties; or

(d) Prevent Declarant, or any contractor or subcontractor working for the Declarant, from maintaining portable toilets on the Properties for use by persons performing construction work; or

(e) Require Declarant to obtain the approval of the Subassociation DRC or the Subassociation for any such activity or Improvement made by Declarant.

Nothing in this Article IX shall limit or impair the reserved rights of Declarant provided elsewhere in this Declaration.

Section 3. Declarant's Rights to Use Open Space Areas in Promotion and Marketing of the Property. Declarant shall have and hereby reserves the right to reasonable use of the Open Space Areas and of services offered by the Association in connection with the promotion and marketing of land within the boundaries of the Property. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Open Space Areas such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within the Property; may use vehicles and equipment within the Open Space Areas for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Property, who are not Owners or Members of the Association, to use the Open Space Areas at reasonable times and in reasonable numbers; and may refer to the services offered by the Association in connection with the development, promotion and marketing of the Property.

Section 4. Right to Construct Certain Improvements. Notwithstanding any provisions in this Declaration to the contrary, the Declarant expressly reserves to itself, its agents or assigns, the right to build any bridges, walkways, tunnels or fixed spans across or under any or all natural or man-made watercourses, lagoons or roads in Pointe San Luis; provided that such walkway, bridge, or fixed span, if it be over a water course intended for pedestrian passage, shall provide a minimum clearance of two (2) feet above the average water level in such watercourse. The designation of walkways, etc. as pedestrian passages shall not be construed as placing an affirmative obligation on the Declarant to keep such passable at all times. Nothing in this paragraph shall be construed as placing an affirmative obligation on the Declarant to provide or construct any bridge, walkway, tunnel or fixed span unless such bridge, walkway, tunnel or fixed span shall be shown and specifically designated on the

recorded plat of the subdivision or section of Lots or Sites referred to and incorporated in the deed of conveyance to the grantee Owner asserting such affirmative obligation on the part of the grantor Declarant.

Section 5. Declarant's Right to Convey Property to Subassociation. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey the Open Space Areas to the Subassociation at any time and from time to time, without the consent of any other Owner or the Subassociation, provided that the Subassociation is not required to pay for such property and that such property is conveyed by special warranty deed subject to no encumbrances inconsistent with the use of such Property as Common Area and no liens.

Section 6. No Trespass. Whenever the Declarant is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the property of any Owner or on the easement areas adjacent thereto, entering the Property and taking such action shall not be deemed a trespass.

Section 7. Declarant's Rights and Prerogatives. Prior to the Control Transfer Date, the Declarant, with the written approval of the lienholders executing this Declaration or any assignee of such lienholders to the extent that such lienholders (or any assignee of such lienholders) continue to hold liens against all or any portion of the Property (it being understood that if such lienholders or any assignee of such lienholders do not currently hold liens against the Property then such lienholders' or assignee's consent shall not be necessary) may file a statement in the Office of the County Clerk of Galveston County, Texas, which expressly provides for the Declarant's (i) discontinuance of the exercise of any right or prerogative provided for in this Declaration or (ii) assignment to any third party owning property within the Properties, of one or more of Declarant's specific rights and prerogatives provided in this Declaration to be exercised by Declarant (provided that such assignee is either the Subassociation or an owner of more than ten [10] Lots). The assignee designated by Declarant to exercise one or more of Declarant's rights or prerogatives hereunder shall be entitled to exercise such right or prerogative until the earlier to occur of (i) the Control Transfer Date or (ii) the date that said assignee files a statement in the Office of the County Clerk of Galveston County, Texas, which expressly provides for said assignee's discontinuance of the exercise of said right or prerogative. In no event may any assignee assign a right or prerogative theretofore assigned by Declarant to such assignee; provided, however, that if one of the existing lienholders hereafter acquires title to a portion of the Property and thereafter conveys such Property to a successor developer or builder, then said lender may assign a prerogative of the Declarant theretofore assigned to said lender to said successor developer or builder. From and after the date that Declarant (or lender, as applicable) discontinues its exercise of any right or prerogative hereunder or assigns its right to exercise one or more of its rights or prerogatives to an assignee, the Declarant (or lender, as applicable) shall not incur any liability to any Owner, the Association or any other party by reason of the Declarant's (or lender's, if applicable) discontinuance or assignment of the exercise of said rights or prerogatives.

ARTICLE X GENERAL PROVISIONS

Section 1. Duration and Amendments. The Covenants, Conditions and Restrictions of this Declaration shall run with and bind the Laguna and Playa Residential Areas for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive

periods of ten (10) years. If, however, any Owner of one of the Owner's Lots does not execute a joinder page to this Declaration, then this Declaration shall not be effective as to such Owner's Lots until such Owner executes and records an instrument ratifying, confirming and consenting to this Declaration, in which event such Owner's Lot shall be subject to all of the terms, covenants and conditions of this Declaration. Notwithstanding the initial 40-year term and any 10-year renewal term of this Declaration, this Declaration may be amended or changed, in whole or in part, at any time by the written agreement or signed ballot of Owners (including the Declarant) entitled to cast not less than three-fourths (3/4ths) of the votes of all of the Owners. If the Declaration is amended by a written instrument signed by those Owners entitled to cast not less than three-fourths (3/4ths) of all of the votes of the Members of the Subassociation, such amendment must be approved by said Owners within three hundred sixty-five (365) calendar days of the date the first Owner executes such amendment. The date an Owner's signature is acknowledged shall constitute prima facie evidence of the date of execution of said amendment by such Owner. Those Members entitled to cast not less than three-fourths (3/4ths) of all of the votes of the Members of the Subassociation may also vote to amend this Declaration, in person or by proxy, at a meeting of the Members duly called for such purpose, written notice of which shall be given to all Owners at least ten (10) days and not more than sixty (60) days in advance and shall set forth the purpose of such meeting. Notwithstanding any provision contained in the Bylaws to the contrary, a quorum, for purposes of such meeting, shall consist of not less than seventy percent (70%) of all of the Members (in person or by proxy) entitled to vote. Any such amendment shall become effective when an instrument is filed for record in the Official Public Records of Real Property of Galveston County, Texas, accompanied by a certificate, signed by a majority of the Subassociation Board, stating that the required number of Members either (i) executed the instrument (or a signature page of the instrument) amending this Declaration or (ii) cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose. Copies of the written ballots pertaining to such amendment shall be retained by the Subassociation for a period of not less than three (3) years after the date of filing of the amendment or termination.

Section 2. Declarant's Right to Amend. The Declarant shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, oversight, ambiguity or inconsistency appearing herein, provided that any such shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or adversely affect the vested property or other rights of any Owner or his mortgagee. Additionally, Declarant shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of permitting the Owners to enjoy the benefits from technological advances, such as security, communications, or energy-related devices or equipment that did not exist or were not in common use in residential subdivisions at the time this Declaration was adopted. Likewise, the Declarant shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of prohibiting the use of any device or apparatus developed or available for residential use following the date of this Declaration if the use of such device or apparatus might

007-38-2711

affect adversely the Association or the property values within Laguna and Playa Residential Areas.

Section 3. Notices. Any notice required to be sent to any Owner under the provisions of these Laguna and Playa Covenants shall be deemed to have been properly sent when mailed, first class mail, postpaid, to the last known address of the person who appears as Owner on the records of the Subassociation at the time of such mailing.

Section 4. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons or entity violating or attempting to violate any provision hereof, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitive or mandatory, or to obtain any other relief authorized by law. Such enforcement may be by the Owner of any Lot, the Association, the Subassociation, or by Declarant, its successors, or assigns. The failure of any persons entitled to enforce any provision hereof to enforce the same shall in no event be deemed a waiver of any right to enforce the provisions hereof thereafter.

Section 5. Severability. Invalidation of one or more of the covenants, conditions, reservations, or restrictions hereof by judgment or court order or otherwise shall in no way affect any other of the covenants, conditions, reservations or restrictions, which shall continue and remain in full force and effect.

Section 6. Violations. Any violation of this Declaration shall not affect any lien or deed of trust of record held in good faith, upon any Lot or any part thereof, which liens may be enforced in due course, subject to the covenants, conditions, reservations, and restrictions contained herein.

Section 7. Annexation. Any property owned by Declarant may be annexed into the jurisdiction of this Declaration by Declarant, without the joinder of any other Owner or the then existing lienholder (other than the lienholder of the land being annexed), upon the filing of any appropriate instrument in the Official Public Records of Real Property of Galveston County, Texas. Upon such annexation, such annexed property shall be charged with each and all of the covenants, conditions, restrictions, charges, and liens hereof as and from the date same is so recorded, and will be part of the property subject to the jurisdiction of the Subassociation Design Review Committee.

Section 8. Omissions. If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in these Laguna and Playa Covenants shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence, or provision shall be supplied by inference.

EXECUTED effective as of the date first above written.

FIMSA, INC.

By: [Signature]
Name: Paul S. Gonzalez
Office: Vice-President
"DECLARANT"

007-38-2712

STATE OF TEXAS S
 S
COUNTY OF HARRIS S

THIS INSTRUMENT was acknowledged before me on the 31st day
of January, 1991, by Marilyn S. [unclear]
Vice President of FIMSA, INC., a Colorado corporation, on behalf of
said corporation.



Donna E. Aultman
NOTARY PUBLIC, STATE OF TEXAS

EXECUTION PAGE TO
POINTE SAN LUIS
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
LAGUNA AND PLAYA RESIDENTIAL AREAS

007-38-2713

OWNER RATIFICATION

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

Harlan E. Smith and Mary Ann Kilbourne (collectively, "Owner"), the owner of Lot 52, Block 1, Playa San Luis I Subdivision, a subdivision in Galveston County, Texas, according to the Map or Plat thereof, recorded in Volume 18, Page 155 of the Map Records of Galveston County, Texas, hereby ratify, confirm, and consent to this Declaration of Covenants, Conditions and Restrictions for Laguna and Playa Residential Areas ("Declaration") and all of the terms, dedications, and conditions contained in this Declaration.

Owner hereby warrants and represents that it holds fee simple title to the land described above.

EXECUTED this _____ day of _____, 1990.

HARLAN E. SMITH

MARY ANN KILBOURNE

First Gibraltar Bank, FSB ("First Lender") successor in interest to Gibraltar Savings Association, current holder of indebtedness secured by liens (collectively the "Liens"): (i) created in that certain Deed of Trust dated May 20, 1988, executed by Harlan E. Smith and Mary Ann Kilbourne to John C. Averett, Trustee for the benefit of First Lender filed for record in the Real Property Records of Galveston County, Texas under Clerk's File No. 8818708 and recorded under Film Code No. 005-87-1391 and (ii) retained and assigned in that certain Warranty Deed (With Vendor's Lien Printed) dated May 20, 1988, executed by Neighborhood Classic Homes, Inc. to Harlan E. Smith and Mary Ann Kilbourne, filed for record in the Real Property Records of Galveston County, Texas under Clerk's File No. 8818707 and recorded under Film Code No. 005-87-1388, on Lot 52, Block 1, Playa San Luis I Subdivision ("Property"), hereby consents to this Declaration of Covenants, Conditions and Restrictions for Laguna Residential Areas ("Declaration") and all of the terms, dedications and conditions contained in this Declaration and the subordination of the Liens on the Property to this Declaration. First Lender does hereby subordinate all of the Liens and other security interests in or on the Property to this Declaration.

FIRST GIBRALTAR BANK, FSB

By: _____
Name: _____
Title: _____

Morgan & Company ("Second Lender"), current holder of indebtedness secured by a lien created in that certain Deed of

007-38-2714

Trust dated November 21, 1989, executed by Harlan E. Smith and Mary Ann Kilbourne to Neil Morgan, Trustee for the benefit of Second Lender, filed for record in the Real Property Records of Galveston County, Texas under Clerk's File No. 9005463 and recorded under Film Code No. 006-84-2743, on Lot 52, Block 1, Playa San Luis I Subdivision ("Property"), hereby consents to this Declaration of Covenants, Conditions and Restrictions for Laguna Residential Areas ("Declaration") and all of the terms, dedications and conditions contained in this Declaration and the subordination of the Liens on the Property to this Declaration. Second Lender does hereby subordinate all of the Liens and other security interests in or on the Property to this Declaration.

MORGAN & COMPANY

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 1990, by HARLAN E. SMITH.

[S E A L]

Notary Public, State of T E X A S

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 1990, by MARY ANN KILBOURNE.

[S E A L]

Notary Public, State of T E X A S

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 1990, by _____ of FIRST GIBRALTAR BANK, FSB, a federal savings bank, on behalf of said federal savings bank.

[S E A L]

Notary Public - State of T E X A S

007-38-2715

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INSTRUMENT was acknowledged before me on this ___ day
of _____, 1990, by _____
of MORGAN & COMPANY, a corporation, on behalf of
said corporation.

[S E A L]

Notary Public - State of T E X A S

007-38-2716

OWNER RATIFICATION

STATE OF TEXAS §
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

Jack C. Meshel and Elizabeth Gayle Meshel (collectively, "Owner"), the owner of Lot 51, Block 1, Playa San Luis I Subdivision, a subdivision in Galveston County, Texas, according to the Map or Plat thereof recorded in Volume 18, Page 155 of the County Clerk's Office of Galveston County, Texas, hereby ratify, confirm, and consent to this Declaration of Covenants, Conditions and Restrictions for Laguna and Playa Residential Areas ("Declaration") and all of the terms, dedications, and conditions contained in this Declaration.

Owner hereby warrants and represents that it holds fee simple title to the land described above.

EXECUTED this _____ day of _____, 1990.

JACK C. MESHEL

ELIZABETH GAYLE MESHEL

First Gibraltar Bank, FSB ("Lender"), current holder of indebtedness secured by liens (collectively the "Liens"): (i) created in that certain Deed of Trust dated September 5, 1989, executed by Jack C. Meshel and Elizabeth Gayle Meshel to First Texas Service Corporation, trustee for the benefit of Lender filed for record in the Real Property Records of Galveston County, Texas under Clerk's File No. 8930682 and recorded under Film Code No. 006-62-2665; and (ii) retained and assigned in that certain Warranty Deed (With Vendor's Lien Printed) dated September 5, 1989, executed by Neighborhood Classic Homes, Inc. to Owner, filed for record in the Real Property Records of Galveston County, Texas under Clerk's File No. 8930681 and recorded under Film Code No. 006-62-2662, on Lot 51, Block 1, Playa San Luis I Subdivision ("Property"), hereby consents to this Declaration of Covenants, Conditions and Restrictions for Laguna and Playa Residential Areas ("Declaration") and all of the terms, dedications and conditions contained in this Declaration and the subordination of the Liens on the Property to this Declaration. Lender does hereby subordinate all of the Liens and other security interests in or on the Property to this Declaration.

FIRST GIBRALTAR BANK, FSB

By: _____
Name: _____
Title: _____

007-38-2717

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INSTRUMENT was acknowledged before me on this ____ day
of _____, 1990, by JACK C. MESHEL.

[S E A L]

Notary Public - State of T E X A S

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INSTRUMENT was acknowledged before me on this ____ day
of _____, 1990, by ELIZABETH GAYLE MESHEL.

[S E A L]

Notary Public - State of Texas

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INSTRUMENT was acknowledged before me on this ____ day
of _____, 1990, by _____ of
FIRST GIBRALTAR BANK, PSB, a federal savings bank, on behalf of
said federal savings bank.

[S E A L]

Notary Public - State of T E X A S

007-38-2718

OWNER RATIFICATION

STATE OF TEXAS §
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

Scott D. Sweet and Dian M. Sweet (collectively, "Owner"), the owner of Lot 40, Block 1, Laguna San Luis I Subdivision, a subdivision in Galveston County, Texas, according to the Map or Plat thereof recorded in Volume 18, Page 150 of the County Clerk's Records of Galveston County, Texas, hereby ratify, confirm, and consent to this Declaration of Covenants, Conditions and Restrictions for Laguna and Playa Residential Areas ("Declaration") and all of the terms, dedications, and conditions contained in this Declaration.

Owner hereby warrants and represents that it holds fee simple title to the land described above.

EXECUTED this 29th day of August, 1990.

Scott D. Sweet

SCOTT D. SWEET

Dian M. Sweet

DIAN M. SWEET
DIANE

STATE OF TEXAS §
COUNTY OF Harris §

THIS INSTRUMENT was acknowledged before me on this 30 day of Aug, 1990, by SCOTT D. SWEET.

(S.E.A.L.)

O. J. Braden
Notary Public - State of TEXAS

STATE OF TEXAS §
COUNTY OF Harris §

THIS INSTRUMENT was acknowledged before me on this 30 day of Aug, 1990, by DIAN M. SWEET.

(S.E.A.L.)

O. J. Braden
Notary Public - State of TEXAS

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07109001001

AFTER RECORDING, RETURN TO:

Richard McDugald, Esq.
Winstead Sechrest & Minick, P.C.
910 Travis, Suite 1700
Houston, Texas 77002

PAID



FEB 6 1991

Jessie B. Kirkendall
COUNTY CLERK
GALVESTON CO., TEXAS

STATE OF TEXAS COUNTY OF GALVESTON
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the Official Public Records of Real Property of Galveston County Texas, on

FILED FOR RECORD
91 FEB -6 AM 9:51

COUNTY CLERK
GALVESTON COUNTY, TEXAS

007-38-2719

CERTIFICATE OF LEGALITY AND AUTHENTICITY
FOR MICROFILM RECORDS

OFFICIAL PUBLIC RECORDS OF REAL PROPERTY
DIVISION: REAL PROPERTY - RECORDS DIVISION

I, JESSIE G. KIRKENDALL, COUNTY CLERK OF GALVESTON COUNTY, TEXAS, DO HEREBY CERTIFY that the microfilming of the images between the Title Page and the Certificate of Legality and Authenticity has been in strict accordance with Chapter 194, Local Government Code, and that each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; and no splice was made in the original negative film between the Title Page and this Certificate.

OFFICIAL PUBLIC RECORDS OF REAL PROPERTY
DIVISION: REAL PROPERTY - RECORDS DEPARTMENT

Filed On February 6, 1991.

File No. 9104251

Thru File No. 9104309

Starting With
Film Code No. 007-38-2505

Ending With
Film Code No. 007-38-2719

JESSIE G. KIRKENDALL, COUNTY CLERK
GALVESTON COUNTY, TEXAS

BY Harley Jensen
Deputy

007-38-2720

FILM TITLE PAGE FOR
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY
DIVISION: REAL PROPERTY - RECORDS DEPARTMENT
GALVESTON COUNTY, TEXAS

"INSTRUMENTS AFFECTING REAL PROPERTY TITLE WHICH WERE FILMED
IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS,
ON 6th DAY February, 1991.
STARTING WITH FILE NUMBER 9104310."

JESSIE G. KIRKENDALL COUNTY CLERK
GALVESTON COUNTY, TEXAS

By Harley Jensen
Deputy