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**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR SUNNY POINTE, A RESIDENTIAL
COMMUNITY TO THE CITY OF OKLAHOMA CITY,
OKLAHOMA COUNTY, OKLAHOMA**

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**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR SUNNY POINTE, A RESIDENTIAL
COMMUNITY TO THE CITY OF OKLAHOMA CITY, OKLAHOMA COUNTY,
STATE OF OKLAHOMA**

THIS DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS FOR SUNNY POINTE, A RESIDENTIAL COMMUNITY TO THE CITY OF OKLAHOMA CITY, OKLAHOMA COUNTY, OKLAHOMA is made this 22nd day of March, 2005, by ERC LAND DEVELOPMENT GROUP, LLC, an Arkansas limited liability company. Words bearing initial capital letters shall have the meanings ascribed to them in Article 2 of this Declaration or as defined within this Declaration.

PART ONE: INTRODUCTION TO THE COMMUNITY

The Declarant has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance and preservation of Sunny Pointe as a quality residential community.

This Declaration contemplates the existence, within Sunny Pointe, of one or more distinct areas herein called "Series" as well as other individually owned property. The Association is a homeowners association comprised of all Owners of Lots in Sunny Pointe.

The Association has the power under the Governing Documents to establish standards for conduct and activities for the property within Sunny Pointe. Another component of the Sunny Pointe development is the Design Review Board, which has jurisdiction over all matters of design review for all Lots within Sunny Pointe.

**Article 1
Creation of the Community**

1.1 Purpose and Intent.

The Declarant, as the owner of the real property described in Exhibit "A" and Exhibit "B," intends by the Recording of this Declaration to create a general plan of development for the planned community known as Sunny Pointe. This Declaration provides a flexible and reasonable procedure for future expansion of Sunny Pointe to include additional real property as Declarant deems appropriate and provides for the overall development, administration, maintenance and preservation of the real property now and hereafter comprising Sunny Pointe. An integral part of the development plan is the creation of the Association to be comprised of all Owners of Lots in Sunny Pointe, to own, operate and/or maintain various Common Areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

This Declaration does not and is not intended to create a unit ownership estate within the meaning of 60 O.S., 501 et seq. This document does and is intended to create a real estate development and owners association within the meaning of 60 O.S. §857 et seq.

1.2 Binding Effect and Term.

The real property described in Exhibit "A" and any of the Exhibit "B" additional real property which is made a part of Sunny Pointe in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the land and title to such property. This Declaration shall be binding on all Persons having any right, title or interest in any portion of Sunny Pointe, their respective heirs, successors, successors-in-title and assigns.

This Declaration shall remain in effect for a term of forty (40) years from the date Recorded. Declarant, the Association, any Owner and their respective legal representatives, heirs, successors and assigns may enforce it. After such forty (40) year period, the Declaration's term shall automatically extend for successive ten (10) year periods unless seventy-five percent (75%) of the then Owners sign and Record, within the year preceding any extension, a document which terminates, adds to or amends, in whole or in part, this Declaration.

If any provision of this Declaration would be unlawful, void or voidable by reason of applicability of the rule against perpetuities, such provision shall expire twenty-one (21) years after the death of the last survivor of the now living descendants of the youngest living President of the United States having a descendant. Nothing in this section shall be construed to permit termination of any easement, covenant, restriction or obligation created in this Declaration without the consent of the holder of such easement.

1.3 Governing Documents.

The Governing Documents create a general plan of development for Sunny Pointe which may be supplemented by additional covenants, restrictions and easements applicable to the property within Sunny Pointe. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions and/or the provisions of any other articles of incorporation, bylaws or rules or policies, this Declaration shall control.

Nothing in this section shall preclude the Recording of a Supplemental Declaration or other document applicable to any portion of Sunny Pointe containing additional restrictions or more restrictive provisions. However, any Person who seeks to Record any document applicable to Sunny Pointe must obtain the Declarant's written consent so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration. Any attempted Recordation without such consent shall result in such document being void and of no force and effect unless subsequently approved by Recorded consent signed by the Declarant, so long as the Declarant owns any of the Properties.

All provisions of the Governing Documents shall apply to all Owners and to all occupants of all Lots, as well as their respective tenants, guests and invitees. Any lease of a Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of Governing Documents.

If any provision of this Declaration is determined by judgment or court order, to be invalid or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

Article 2 Definitions

The terms used in the Governing Documents shall be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below. If not defined herein, capitalized terms shall be defined as set forth in this Declaration, as applicable.

2.1 **"Articles"**: The Certificate of Incorporation, as amended from time to time, for the Association filed with the Oklahoma Secretary of State on April 15, 2004.

2.2 **"Architectural Review Committee"**: The successor to any Design Review Board, if so assigned by the applicable Design Review Board.

2.3 **"Association"**: The Sunny Pointe Property Owners' Association, Inc., an Oklahoma not for profit corporation, its successors or assigns.

2.4 **"Base Assessment"**: Assessments levied on all Lots subject to assessment under Article 8 of this Declaration to fund Common Expenses for the general benefit of all Lots.

- 2.5 **"Board of Directors" or "Board"**: The body responsible for administration of the Association as provided in the Governing Documents.
- 2.6 **"Builder"**: Any Person approved by the Declarant who purchases Lots in bulk (multiple) fashion for the purpose of building residential dwellings which will be sold to the general public. The Builders shall not be responsible for Base Assessments on a Lot until the earlier of the date of issuance of a certificate of occupancy by the City of Oklahoma City for such Lot or the second anniversary of filing of the plat for the applicable Series within Sunny Pointe.
- 2.7 **"Bylaws"**: The Governing Document appearing at Exhibit "D" to this Declaration, as amended.
- 2.8 **"Certificate of Architectural Compliance"**: Certificate issued pursuant to Section 4.7 to this Declaration.
- 2.9 **"Class "B" Control Period"**: The period of time during which the Class "B" Member is entitled to exercise, among other things, any addition or annexation rights under Section 9.1 to this Declaration.
- 2.10 **"Common Area"**: All real and personal property, including, but not limited to, easements and Series Common Area, if any, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.
- 2.11 **"Common Expenses"**: The actual and estimated expenses incurred or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not be limited to those expenses relative to the care of Common Area. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless approved by Members representing a majority of the total Class "A" votes of the Association.
- 2.12 **"Declarant"**: ERC Land Development Group, LLC, an Arkansas limited liability company, its successors or assigns who takes title to any portion of the Exhibit "A" or "B" real property for the purpose of development and/or sale and who is designated as Declarant in a Recorded document executed by the immediately preceding Declarant.
- 2.13 **"Dedicated Property"**: Real property dedicated by recorded document to a public authority and/or utility for public use.
- 2.14 **"Design Review Board"**: Generally, the entity with jurisdiction over the approval and denial of all applications for new construction and modifications of existing construction. Specifically, each Series contains its own Design Review Board, as provided under Section 4 to this Declaration.
- 2.15 **"Design Review Guidelines"**: The architectural rules, policies and requirements governing new construction and modifications within the Properties as administered by the applicable Design Review Board.
- 2.16 **"Development Plan"**: The land use plan for the development of Sunny Pointe approved by the City of Oklahoma City, Oklahoma and recorded with the County Clerk of Oklahoma County, Oklahoma, as it may be amended, which may include all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Inclusion of real property on the Development Plan shall not, under any circumstances, obligate Declarant to subject such real property to this Declaration, nor shall the omission of real property described in Exhibit "B" from the Development Plan bar later submission of such real property to this Declaration as provided in Article 9 of this Declaration.
- 2.17 **"Lot"**: Each of the Lots depicted on the plat Recorded with the County Clerk of Oklahoma County, Oklahoma for the Series.

2.18 **"Member"**: A Person subject to membership in the Association pursuant to Section. 6.2 of this Declaration. Every Owner shall be a Member, subject to the limitations on co-Owners as provided in this Declaration and the Bylaws.

2.19 **"Mortgage"**: A mortgage, a deed to secure debt or any other form of security document affecting title to any Lot

2.20 **"Mortgagee"**: A beneficiary or holder of a Mortgage.

2.21 **"Owner"**: One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a Recorded contract of sale and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

2.22 **"Person"**: A natural person, a corporation, a partnership, a trustee, a limited liability company or any other legal entity.

2.23 **"Plans"**: Collectively, the elevation, drawings, application and other documents prepared by an Owner or as applicable a Builder, to a Design Review Board.

2.24 **"Properties"**: The real property described within Exhibits "A" and "B" to this Declaration.

2.25 **"Record," "Recording," or "Recorded"**: To file, filing or filed of record in the official records of the County Clerk of Oklahoma County, State of Oklahoma. The date of Recording shall refer to that time at which a document, map or plat is Recorded.

2.26 **"Series"**: A group of more than one Lot designated as a distinct area, section or phase for one or more of the following purposes: (a) sharing Series Common Areas, (b) receiving other benefits or services from the Association which are not provided to all Lots within Sunny Pointe or (c) electing a Series Board Member as provided in Section 6.4 of this Declaration. A Series may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Lots within a particular Series, then the benefited Lots shall constitute a sub-Series for purposes of determining and levying Series Assessments for such benefits or services.

2.27 **"Series Assessments"**: Assessments levied against the Lots in a particular Series or multiple Series to fund Series Expenses, as described in Section 8.2 of this Declaration.

2.28 **"Series Board Member"**: Such Association board member elected from within a Series for representation of such Series interests on the Association Board.

2.29 **"Series Common Area"**: A portion of the Common Area primarily benefiting one or more, but less than all, Series, as more particularly described in Article 12 of this Declaration.

2.30 **"Series Expenses"**: The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of Lots within a particular Series or multiple Series, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may specifically be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Series or multiple Series.

2.31 **"Special Assessment"**: Assessments levied in accordance with Section 8.4 of this Declaration.

2.32 **"Specific Assessment"**: Assessments levied in accordance with Section 8.5 of this Declaration.

2.33 **"Supplemental Declaration"**: A document Recorded pursuant to Article 9 of this Declaration, which accomplishes one or more of the following purposes: (a) subjects additional Exhibit "B" property to this Declaration; (b) designates Series or Series Common Areas; or (c) imposes, expressly or by reference, additional restrictions and obligations on the real property described in such document.

2.34 **"Sunny Pointe"**: The real property described in Exhibit "A," together with such additional Exhibit "B" property as is subjected to this Declaration in accordance with Article 9 of this Declaration.

2.35 **"Governing Documents"**: A collective term referring to this Declaration and any applicable Supplemental Declaration, the Bylaws, the Articles, the Use Restrictions and Rules and any Design Review Guidelines promulgated in accordance with Section 4 of this Declaration, as amended.

2.36 **"Sunny Pointe-Wide Standard"**: The standard of conduct, maintenance or other activity generally prevailing throughout Sunny Pointe. Such standard shall be established initially by the Declarant and may be more specifically defined in the Use Restrictions and Rules Design. Review Guidelines and in Board resolutions, the budget, levels of maintenance and the Association's operation of Common Areas and applicable facilities. '

2.37 **"Use Restrictions and Rules"**: The initial use restrictions and rules attached hereto as Exhibit "C" and made a part hereof; as supplemented, modified or repealed pursuant to Article 3 of this Declaration.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use, conduct, maintenance and architecture at Sunny Pointe give the community its identity and make Sunny Pointe a place people want to call "home." The standards are more than simply rules. This Declaration establishes procedures for rulemaking as a dynamic process which allows the community standards to evolve as the community changes and grows and as technology and public perception change.

Article 3 Use and Conduct

3.1 Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for Sunny Pointe, a framework of affirmative and negative covenants, easements and restrictions which govern Sunny Pointe. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends and technologies which inevitably will affect Sunny Pointe, its Owners and residents. This Article establishes procedures for modifying and expanding the Use Restrictions and Rules. Any modification or expansion shall be effective whether or not recorded. Each Owner is charged with determining the scope, terms and nature of any restrictions, rules and Design. Review Guidelines pertaining to Sunny Pointe, whether or not such documents are recorded, provided such document is adopted pursuant to the terms of this Declaration.

3.2 Rule Making Authority.

(1) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and the Members, the Board may modify, cancel, limit, create exceptions to or expand the Use Restrictions and Rules. The Use Restrictions and Rules will apply to Lots, Common Areas, Owners, Persons, Series, Series Common Areas and the Association. The Board shall send notice by mail to all Owners concerning any such proposed action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (3) below, unless disapproved at a meeting by Members representing more than fifty percent (50%) of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Board shall have no obligation to call a meeting of the Members to consider disapproval except on receipt of a petition of the Members as required for special meetings in the Bylaws.

(2) Alternatively, the Members, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to or expand the Use Restrictions and Rules by a vote of Members representing more than fifty percent (50%) of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(3) In an effort to assist any Owner in discharging their duty of inquiry under 3.1 of this Declaration, at least thirty (30) days prior to the effective date of any action taken under subsections (1) or (2) of this section, the Board shall send a copy of the new rule or explanation of any changes to the Use Restrictions and Rules to each Owner specifying the effective date which, in no event, will be sooner than thirty (30) days from the date of adoption. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee. Failure to affirmatively provide a copy of the new rule or explanation of any changes in the Use Restrictions and Rules, unless an Owner, Member or Mortgagee expressly requests in writing a copy of the same, shall not affect the validity or effect of such rule or explanation thirty (30) days after adoption.

3.3 Owners Acknowledgment and Notice to Purchasers.

All Owners are hereby given notice that use of their Lots and the Common Area is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of such Owner's Lot can be affected by this provision and that the Use Restrictions and Rules may change from time to time. All purchasers of Lots are on notice that changes may have been adopted by the Association. Copies of the current Use Restrictions and Rules may be obtained from the Association as provided above.

3.4 Protection of Owners and Others.

Except as may be contained in this Declaration either initially or by amendment or in the Use Restrictions and Rules and the Design Review Guidelines, all policies and regulations shall comply with the following provisions:

(1) Similar Treatment. Similarly situated Owners shall be treated similarly; provided, the Design Review Guidelines and Use Restrictions and Rules may vary by Series.

(2) Displays. The rights of Owners to display religious and holiday signs, symbols and decorations inside structures on their Lots of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place and manner restrictions with respect to displays visible from outside the dwelling. No rules shall unreasonably regulate the content of political signs. The rules may regulate the time, place and manner of posting such signs (including design criteria).

(3) Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Lot on the basis of the size and facilities of the Lot and such occupants' fair use of the Common Area.

(4) Activities within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association, in the Association's sole discretion, may prohibit activities not normally associated with property restricted to residential use and it may restrict or prohibit

any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling or that create an unreasonable source of annoyance.

(5) Alienation. No rule shall prohibit transfer of any Lot or require consent of the Association or Board for transfer of any Lot. The Association may require the payment of a fee for transfer, but shall not impose any fee on the transfer of any Lot greater than an amount reasonably based on the costs to the Association of administering that transfer.

(6) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Lot prior to the adoption of such rule and which was in compliance with all rules previously in force. This dispensation shall apply only for the duration of such Owner's ownership of the Lot personally and this right shall not run with title to any Lot

(7) Reasonable Basis. No rule may prohibit any activity, condition or conduct unless a reasonable basis exists for the enactment of such rule. For purposes of this subsection, reasonable basis may include, but not be limited to, restrictions as to time, place and manner of activity or conduct or concerns relating to safety, fair use of Common Area, cost, aesthetics or the goals of the Development Plan.

(8) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop the Properties.

The limitations in subsections (1) through (8) of this section shall only limit rulemaking authority exercised under Section 3.2 of this Declaration; they do not limit amendments to this Declaration adopted in accordance with Article 18 of this Declaration or rights retained by the Declarant under Section 9.1 of this Declaration.

Article 4 Architecture and Landscaping

4.1 General.

The Design Review Board shall have primary jurisdiction over all matters of design review for all property in Sunny Pointe. The Design Review Board may, however, delegate some of its power or responsibilities, with respect to design review for Sunny Pointe to the Association. Unless and until such time as the Design Review Board delegates all or a portion of its reserved rights to the Association, the Association shall have no jurisdiction over architectural matters. To assist with an Owner's navigation of the design review process and standards, the Design Review Board adopts the Design Review Guidelines as initially set out in Exhibit "F," which may be amended from time to time as provided in Section 1.3 to the Design Review Guidelines. The Declarant shall act as the Design Review Board until the earlier of (a) the termination of the Class "B" Control Period; or (b) the Declarant by Recorded document assigns oversight of the Design Review Board to the Association.

4.2 New Construction.

The Design Review Board shall have exclusive oversight of all new construction within Sunny Pointe, including but not limited to those elements defined as modifications in the Design Review Guidelines. So long as Declarant owns any portion of the Properties, Declarant, by agreement with the Design Review Board, may establish a higher standard of design review for initial construction for all or a portion of Sunny Pointe than that which is or was applicable to other portions of Sunny Pointe. In such event, Declarant shall administer the design review standards that exceed those imposed by the Design Review Board in accordance with procedures, policies and standards agreed on by Declarant and the Design Review Board.

4.3 Modifications.

The Design Review Board shall have exclusive oversight of all modifications to existing construction within Sunny Pointe, including but not limited to all exterior improvements, structures and any appurtenances thereto or components thereof of every type and kind and all landscaping features; including but not limited to repairing, replacing, painting, or improving: buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar panels, painting or other finish materials on any visible surface, additions, walkways, sprinkler systems, garages, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, gardens, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior lighting, poles, sporting fixtures such as basketball goals, temporary sporting features such as temporary basketball goals, signs, exterior tanks, exterior air conditioning units, cooling, heating and water softening equipment (collectively, modifications). If the Design Review Board delegates to the Association its design review authority for exterior alterations of existing improvements or planting or removal of landscaping, the Association shall establish an Architectural Review Committee. The structure, policies, procedures and standards set forth in this section shall apply to the Architectural Review Committee unless the Design Review Board otherwise establishes or modifies such matters.

4.4 No Waiver of Future Approvals.

Each Owner acknowledges that the members of the Design Review Board reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of this Declaration or the Design Review Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed activity on a Lot within the scope of this Article until such activities have been completed, in which case it may be necessary to require changes to the improvements involved. Approval of applications or Plans for any activities done or proposed or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right of the Design Review Board to withhold approval as to any similar applications, Plans or other matters subsequently or additionally submitted for approval.

4.5 Variances.

The Design Review Board may authorize variances from compliance with the Design Review Guidelines: (a) in narrow circumstances where the design meets the intent of the provision sought to be varied and where granting of the variance would enhance design innovation and excellence; or (b) when circumstances such as topography, natural obstructions or aesthetic or environmental considerations so require, but only in accordance with duly adopted rules and regulations. A variance may be granted only when special circumstances so dictate and no variance shall: (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this section, the inability to obtain approval of any governmental agency, issuance of any permit or the terms of any financing shall not constitute hardships.

4.6 Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Sunny Pointe; they do not create any duty to any Person. Review and approval of any application pursuant to this Article are made on the basis of aesthetic considerations only and the Design Review Board shall not bear any responsibility for ensuring: (a) structural integrity or soundness of approved construction or modifications, (b) compliance with building codes and other governmental requirements; or (a) conformity of quality, value, size or design among Lots.

Declarant, the Design Review Board, the Association, the Board and any committee or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work or for any defects in plans revised or approved hereunder or for any injury, damages or loss arising out of the

manner or quality of approved construction on or modifications to any Lot. In all matters, the Design Review Board shall be defended and indemnified by the Association as provided in Section 7.6 of this Declaration.

4.7 Certificate of Compliance.

Any Owner may request that the Reviewer issue a Certificate of Architectural Compliance certifying that there are no known violations of this Declaration. The Association shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such Certificate of Architectural Compliance. Issuance of a Certificate of Architectural Compliance shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of the Certificate of Architectural Compliance.

4.8 Fees; Assistance.

The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant, the Design Review Board and the Association may employ architects, engineers or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.9 Declarant and Design Review Board Address.

For purposes of this Article 4, Owners or, as applicable, Builders shall submit applications to the Sunny Point Design Review Board, 1000 West Wilshire Avenue, Suite 308, Oklahoma City, Oklahoma 73116. Any change in the above notice address shall be given through a filing in the real property records of Oklahoma County, State of Oklahoma designated a "Change of Address for Design Applications" providing the new address for submission of applications.

Article 5 Maintenance and Repair

5.1 Maintenance of Lots.

Each Owner shall maintain such Owner's Lot, including all landscaping and improvements comprising the Lot, in a manner consistent with the Governing Documents, the Sunny Pointe-Wide Standard and all applicable covenants, unless, such maintenance responsibility is otherwise assumed by or assigned to the Association or a Series pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

5.2 Maintenance of Series Common Areas.

The Association shall maintain all Common Areas and Series Common Areas, including any improvements appurtenant thereto in a manner consistent with the Governing Documents, the Sunny Pointe Wide Standard and all applicable covenants.

On resolution of the Board, the Owners within each Series shall be responsible for paying, through Series Assessments, the costs of operating, maintaining and insuring certain portions of the Series Common Area within or adjacent to such Series. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and green space between the Series and adjacent public roads, private streets within the Series and lakes or ponds within the Series, regardless of

ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Series which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Series, in addition to that designated by any Supplemental Declaration, either by agreement with the Series or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Sunny Pointe-Wide Standard. All costs of maintenance pursuant to this section shall be assessed as a Series Assessment only against the Lots within the Series for which the services are provided. The provision of services in accordance with this section shall not constitute discrimination within a class.

5.3 Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other documents creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Sunny Pointe-Wide Standard.

By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on such Owner's Lot, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising such Owner's Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 4 of this Declaration. Alternatively, the Owner shall clear the Lot and maintain the Lot in a neat and attractive, landscaped condition consistent with the Sunny Pointe-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this section shall apply to any Series responsible for its property within the Series in the same manner as if the Series were an Owner and the common property was a Lot. Additional Recorded covenants applicable to any Series may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Lots within such Series and for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

The success of Sunny Pointe is dependent on the support and participation of every Owner in its governance and administration. This Declaration establishes the Association as the mechanism by which each Owner is able to provide that support and participation. While many powers and responsibilities are vested in the Association's Board of Directors, some decisions are reserved for the Association's membership the Owners of Lots in Sunny Pointe.

Article 6 The Association and its Members

6.1 Function of Association.

The Association is the entity responsible for management, maintenance, operation and control of the Common Area. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Oklahoma.

6.2 Membership.

Every Owner is a Member of the Association. There is only one (1) membership per Lot. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 63 of this Declaration and in the Bylaws and all such co-owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee or by the individual designated in writing from time to time by the Owner and provided to the Secretary of the Association. Upon taking title to any Lot, each Owner shall provide the Association with a copy of the title transfer document evidencing the Owner's entitlement to membership in the Association. Until such time as an Owner provides the Association with such title transfer document, that Person Owner shall have no membership within the Association.

6.3 Voting.

The Association shall have two (2) classes of membership, Class "A" and Class "B."

(1) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one (1) equal vote for each Lot in which they hold the interest required for membership under Section 6.2 of this Declaration, except that there shall be only one (1) vote per Lot and, except for property held by the Declarant, no vote shall be exercised for any property which is exempt from assessment under Section 8.9 of this Declaration. All Class "A" votes shall be cast as provided in Section 63(3) below.

(2) Class "B". The sole Class "B" Member shall be Declarant. The Class "B" Member may appoint members of the Board of Directors during the Class "B" Control Period, as specified in Section 3 of the Bylaws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 3.19 of the Bylaws.

The Class "B" membership shall terminate on the earlier of

- (i) expiration or termination of the addition and annexation rights reserved to the Declarant in Section 9.1 to this Declaration;
- (ii) or when, in Declarant's discretion, Declarant so determines and declares in a Recorded document.

On termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to one (1) Class "A" vote for each Lot which Declarant owns and, during Declarant's ownership of such Lots, Declarant shall not be responsible for Base Assessments or payment of any Common Expenses.

(3) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the Bylaws, the vote for each Lot owned by a Class "A" Member shall be exercised by the Member or proxy representing the Lot. The Member may cast all such votes as such Member, in such Member's discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for such Member's Lot and there is more than one (1) Owner of such Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lots vote shall be suspended if more than one (1) Person seeks to exercise such vote; however the Lot shall be counted for quorum purposes.

6.4 Series Voting.

(1) Series. Any Series may request that the Association provide a higher level of service than that which the Association generally provides to all Series or may request that the Association provide special services for the benefit of Lots in such Series. On the affirmative vote, written consent or a combination thereof, of Owners of a majority of the Lots within the Series, the Association shall provide the requested services; provided, however, the Board, in its sole discretion, may veto any such request by a Series.

The cost of such services requested by a Series and provided by the Association, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Lot to all Series receiving the same service), shall be assessed against the benefited Lots within such Series as a Series Assessment.

Exhibit "A" to this Declaration and each Supplemental Declaration submitting additional property to this Declaration may initially assign the property submitted thereby to a specific Series (by name or other identifying designation), which Series may be then existing or newly created. So long as Declarant has the right to subject additional property to this Declaration pursuant to Section 9.1 of this Declaration, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Series boundaries; provided, however, without the consent of the Owners of a majority of Lots in the affected Series, Declarant shall not combine two or more Series.

(2) Series Representation on Association Board. Subject to Declarant's right to appoint each member of the Board during the Class "B" Control Period, each Series shall elect a Series Board Member pursuant to the provisions below and as provided in the Bylaws, who shall represent the interests of the Owners of Lots within such Series. In addition, each Series shall elect an alternate Series Board Member, as provided below. The Series Board Member and alternate must be an Owner of a Lot within the Series which is represented.

The Series Board Member and alternate Series Board Member from each Series shall be elected on an annual basis, either by written ballot cast by mail or at a meeting of the Class "A" Members within such Series, as the Board determines. On written petition signed by Class "A" Members holding at least ten percent (10%) of the votes attributable to Lots within any Series, the election for such Series shall be held at a meeting. The presence, in person or by proxy or by written ballot, of Class "A" Members representing at least thirty (30%) of the total Class "A" votes attributable to Lots in the Series shall constitute a quorum at any Series meeting.

The Board shall call for the first election of a Series Board Member from a Series not later than one year after the expiration of the Class B Control Period. Subsequent elections shall be held each year on a date established by the Board. Each Class "A" Member who owns a Lot within the Series shall be entitled to cast one (1) vote per Lot owned. The candidate who receives the greatest number of votes shall be elected as Series Board Member and the candidate receiving the next greatest number of votes shall be elected as the Alternate Series Board Member. The Series Board Member and the Alternate Series Board Member shall serve a term of one (1) year or until their successors are elected.

Any Series Board Member may be removed, with or without cause, on the vote or written petition of Owners of a majority of the total number of Lots owned by Class "A" Members in the Series which the Series Board Member represents.

Article 7 Association Powers and Responsibilities

7.1 Acceptance and Control of Association Property.

The Association, through Board action, may acquire, hold and dispose of tangible and intangible personal property and real property. Declarant and the Declarant's designees may convey to the Association personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." The Association shall accept and maintain such property at the Association's expense for the benefit of the Association's Members, subject to any restrictions set forth in the deed or other document transferring such property to the Association. On written request of Declarant, the Association shall re-convey to Declarant any unimproved portions of Sunny Pointe originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

The Declarant shall not bear any responsibility for any damages caused by mold or by some other agent, that may be associated with defects in Common Area improvements and construction, to include but not be limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value and adverse health effects or any other effects. Any implied warranties, including an implied warranty of workmanlike construction, an implied warranty of habitability or an implied warranty of fitness for a particular use, are hereby waived and disclaimed.

7.2 Maintenance of Common Areas.

The Association shall maintain, in accordance with the Sunny Pointe-Wide Standard and the business judgment rule, the Common Area, which shall include, but need not be limited to:

- (i) all portions of and structures situated on the Common Area;
- (ii) landscaping within public rights-of-way within Sunny Pointe;
- (iii) such portions of any additional property included within the Common Area as may be dictated by this Declaration, any Supplemental Declaration or any contract or agreement for maintenance thereof entered into by the Association;
- (iv) all areas located within Sunny Pointe which serve as part of the storm water drainage system for Sunny Pointe, including improvements and equipment installed therein or used in connection therewith; provided, neither Declarant, the Design Review Board, nor the Association shall have any liability for damage or injury caused by flooding or surface runoff resulting from rainfall or other natural occurrences;
- (v) and any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and the Association's Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Common Area and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association shall have the right to enter on, for the purpose of maintaining and may maintain other property which the Association does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Sunny Pointe-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of, property which the Association does not own, except to the extent that the Association has been negligent in the performance of maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing seventy-five percent (75%) of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Common Area shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

The costs associated with maintenance, repair and replacement of the Common Area shall be a Common Expense; provided, the Association may seek reimbursement from the Owner(s) of or other Persons responsible for, certain portions of the Properties pursuant to this Declaration, other Recorded covenants or agreements with the Owner(s) thereof. Maintenance, repair and replacement of Series Common Areas shall be a Series Expense assessed to the Series or multiple Series to which the Series Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

7.3 Insurance.

7.3.1 Required Coverages. The Association, acting through the Board or the Board's duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(1) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(2) Commercial general liability insurance on the Common Area, insuring the Association and the Association's Members for damage or injury caused by the negligence of the Association or any of the Association's Members, employees, agents or contractors- while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least One Million Dollars (\$1,000,000) per occurrence with respect to bodily injury, personal injury and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(3) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;

(4) Directors and officers' liability coverage;

(5) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth (1/6th) of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based on the exclusion of Persons serving without compensation; and

(6) Such additional insurance as the Board, in the Board's business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Series, obtain and maintain property insurance on the insurable improvements within such Series which insurance shall comply with the requirements of Section 7.3.1(1) of this

Declaration. Any such policies shall provide for a certificate of insurance to be furnished, on request, to the Owner of each Lot insured.

Premiums for all insurance on the Common Area shall be Common Expenses, except that: (a) premiums for property insurance on Lots within a Series shall be a Series Expense; and (b) premiums for insurance on Series Common Areas may be included in the Series Expenses of the Series or multiple Series to which such Series Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

7.3.2 Policy Requirements. The Association shall arrange for an annual review of the sufficiency of the Association's insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the metropolitan Oklahoma City area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, on request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3.1 of this Declaration. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Series Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.24 of the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment.

7.3.2.1. Additional Policy Requirements. All insurance coverage obtained by the Board shall:

- (1) be written with a company authorized to do business in the State of Oklahoma which satisfies the requirements of the Federal National Mortgage Association or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;
- (2) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and the Members. Policies secured on behalf of a Series shall be for the benefit of the Owners within the Series and their Mortgagees, as their interests may appear;
- (3) not be brought into contribution with insurance purchased by Owners, occupants or their Mortgagees individually;
- (4) contain an inflation guard endorsement;
- (5) include an agreed amount endorsement, if the policy contains a co-insurance clause;
- (6) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);
- (7) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;
- (8) include an endorsement precluding cancellation, invalidation, suspension or non-renewal by the insurer on account of any one or more individual Owners or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and
- (9) include an endorsement precluding cancellation, invalidation or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of such Owner's authority on behalf of the Association.

7.3.2.2 Desirable Policy Components. In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

- (1) a waiver of subrogation as to any claims against the Association's Board, officers, employees and its manager, the Owners and their tenants, servants, agents and guests;
- (2) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;
- (3) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (4) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification or non-renewal;
- (5) a cross liability provision; and
- (6) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

7.3.3 Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or the Board's duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition which existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total Class "A" votes in the Association and the Class "B" Member, if any, decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with Sunny Pointe-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of the Members or the Owners of Lots within the insured Series, as appropriate and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3.1 of this Declaration.

7.4 Compliance and Enforcement.

Every Owner and occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the Bylaws. Such sanctions may include, without limitation:

(1) imposing reasonable monetary fines which shall constitute a lien on the violator's Lot. (In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator, but if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine on notice from the Board);

(2) suspending an Owner's right to vote in all matters;

(3) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

(4) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(5) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(6) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of Article 4 of this Declaration and to restore the Lot to its previous condition and, on failure of the Owner to do so, the Board or the Board's designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(7) without liability to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article 4 of this Declaration from continuing or performing any further activities in Sonny Pointe; and

(8) levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 3.24 of the Bylaws; exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and bringing suit at law or in equity to enforce any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform such Owner's maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, determined in the sole discretion of the Board, the Association shall provide the Owner with reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, the Association shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by agreement, may, but shall not be obligated to, enforce applicable city and county ordinances and may, but shall not be obligated to, permit Oklahoma County or the City of Oklahoma City to enforce ordinances within the Properties for the benefit of the Association and the Members.

While conducting the business affairs of the Association, the Board shall act within the scope of the Governing Documents and in good faith to further the legitimate interests of the Association and the Members. In fulfilling the Board's governance responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall exercise the Board's power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

7.5 Implied Rights; Board Authority.

The Association may exercise any right or privilege expressly given to the Association by the Governing Documents or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.6 Indemnification of Officers, Directors and Others.

Subject to Oklahoma law, the Association shall indemnify every officer, Director and committee member, including the Design Review Board and Architectural Review Committee against all damages and expenses, including legal fees, reasonably incurred in connection with any claim, action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, Director or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this section.

The officers, Directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and Directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or Directors may also be Members of the Association).

The Association shall identify and forever hold each such officer, Director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, Director or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7 Security.

The Association may, but shall not be obligated to, maintain or support certain activities at Sunny Pointe designed to enhance the security of Sunny Pointe. Neither the Association nor Declarant are insurers or guarantors of security at Sunny Pointe, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

The Association and Declarant make no representation or warranty that any systems or measures, including any mechanism or system for limiting access to Sunny Pointe, cannot be compromised or circumvented or that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform such Owner's tenants and all occupants of the Owner's Lot that the Association, its Board and committee members and Declarant are not insurers and that each Person at Sunny Pointe assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

7.8 Powers of the Association Relating to Series.

The Association shall have the power to veto any action taken or contemplated to be taken by any Series which the Board reasonably determines to be adverse to the interests of the Association or the Members or inconsistent with the Sunny Pointe-Wide Standard. The Association also shall have the power to require specific action to be taken by any Series in connection with the Association's obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Series shall take the action specified by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Series fails to comply, the Association shall have the right to take such action on behalf of the Series and levy Specific Assessments to cover the costs thereof, as well as an administrative charge and sanctions.

7.9 Provision of Services.

The Board may enter into and terminate contracts or agreements with other entities, including Declarant, to provide services to and facilities for the Members and their guests, lessees and invitees; the Board may charge use and consumption fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities and similar services and facilities. Services provided to Lots comprising a Series or multiple Series shall constitute Series Expenses for those Series receiving the services.

7.10 Facilities and Services Open to the Public.

Certain facilities and areas within the Common Area may be open for the use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks and other neighborhood spots at which to gather and interact and roads, sidewalks, medians and parking lots. Declarant may designate such areas and facilities as open to the public at the time Declarant makes such facilities or areas a part of the Common Area or the Board may so designate at any time thereafter.

7.11 Association's Responsibility with Respect to Transfer of Lots.

If required by law, the Association shall furnish to the purchaser of a Lot, within seven days after receipt of notice of a pending sale of the Lot given in accordance with Article 16 of this Declaration, a copy of the Governing Documents, if not otherwise received by the purchaser in connection with such sale and a dated document containing the following:

- (1) the telephone number and address of a principal contact for the Association, as designated by the Board;
- (2) the amount of all assessments fees or charges then owed by the seller of the Lot;
- (3) a statement regarding whether any portion of the subject Lot is covered by insurance the Association maintains;
- (4) a statement regarding whether the Association has any knowledge of any alterations or improvements to the Lot that violate any provision of this Declaration;
- (5) a statement as to whether the Association has knowledge of any violations of local health or building codes with respect to the Lot; and
- (6) a statement of case names and case numbers for pending litigation with respect to the Lot filed by the Association against the Member or filed by the Member against the Association.

The Association may charge a fee to cover the costs the Association incurs in preparing any document required by this section.

Article 8 Association Finances

8.1 Budgeting and Allocating Common Expenses.

Prior to or contemporaneous with the invoicing of assessments, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3 of this Declaration. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots and the amount to be generated through the levy of Base Assessments and Special Assessments against the Lots, as authorized in Section 8.6 of this Declaration.

The Association is hereby authorized to levy Base Assessments, in accordance with the initial amounts set forth in Exhibit "E," or by some other formula, against all Lots subject to assessment under Section 8.6 of this Declaration to fund the Common Expenses. In determining the Base Assessment rate per Lot, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Section 2.4 of the Bylaws, which petition must be presented to the Board within ten (10) days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above. Notwithstanding any provision to the contrary, the Board may, in the Board's sole discretion, increase the Base Assessment, provided such increase is uniform to all Lots and is no greater than twenty percent (20%) in any fiscal year.

8.2 Budgeting and Allocating Series Expenses.

At the same time as the Association-wide budget, the Board shall prepare a separate budget covering the estimated Series Expenses for each Series on whose behalf Series Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Series have approved pursuant to Section 6.4.1 of this Declaration and any contribution to be made to a reserve fund pursuant to Section 8.3 of this Declaration. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots and the amount required to be generated through the levy of Series and Special Assessments against the Lots in such Series.

The Association is hereby authorized to levy Series Assessments, in accordance with the formula set forth in Exhibit "E," or by some other formula, against all Lots in the Series which are subject to assessment under Section 8.6 of this Declaration to fund Series Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Series, any portion of the assessment intended for exterior maintenance of structures, insurance on structures or replacement reserves which pertain to particular structures shall be levied on each of the benefited Lots in proportion to the benefit received.

The Board shall cause a copy of the Series budget and notice of the amount of the Series Assessment for the coming year to be delivered to each Owner in the Series together with any invoice for Base or Series Assessments. Such budget and assessment shall become effective unless disapproved at a meeting of the Series by Owners of a majority of the Lots in the Series to which the Series Assessment applies. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least ten percent (10%) of the Lots in such Series. This right to disapprove shall only apply to those line items in the Series budget which are attributable to services requested by the Series and shall not apply to any item which the Governing Documents require to be assessed as a Series Assessment.

If the proposed budget for any Series is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Series and the amount of any Series Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Lots in the affected Series to disapprove the revised budget as set forth above.

8.3 Budgeting for Reserves.

The Board shall prepare and review at least annually reserve budgets for, respectively, the Common Area and for each Series for which the Association maintains capital items as a Series Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 of this Declaration and the Series Expense budgets adopted pursuant to Section 8.2 of this Declaration, as appropriate, capital contributions to fund reserves in amounts sufficient to meet projected needs with respect both to amount and timing by annual contributions over the applicable budget period.

8.4 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of the amount budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses or against the Lots within any Series if such Special Assessment is for Series Expenses. The Association shall levy any Special Assessment in accordance with the formula set forth in Exhibit "E." Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members (if a Common Expense) or Series Owners (if a Series Expense) representing more than fifty percent (50%) of the total votes allocated to Lots which will be subject to such Special Assessment and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Lot as follows:

(1) to cover the costs, including overhead and administrative costs, of providing services to a Lot on request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9 of this Declaration). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(2) to cover costs incurred in bringing a Lot into compliance with the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of a Lot, their agents, contractors, employees, licensees, invitees or guests; provided, the Board shall give the Lot Owner prior

written notice and an opportunity for a hearing, in accordance with Section 3.24 of the Bylaws, before levying any Specific Assessment under this subsection (2).

The Association may levy a Specific Assessment against the Lots within any Series to reimburse the Association for costs incurred in bringing the Series into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Lots in or the Series Board Member representing, the Series and an opportunity for such Owners or Series Board Member to be heard before levying any such assessment.

8.6 Authority to Assess Owners; Time of Payment.

The Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in. the Governing Documents. The obligation to pay assessments shall commence on Recording of this Declaration with the County Clerk of Oklahoma County, Oklahoma.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at the closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the Base Assessment and any Series Assessment shall be due and payable in advance on the first (1st) day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on such Owner's Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7 Obligation for Assessments.

8.7.1 Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of Sunny Pointe, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of eighteen percent [18%] per annum or such higher rate as the Board may establish, subject to the limitations of Oklahoma law), late charges as determined by Board resolution, costs and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien on each Lot until paid in full. On a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Series Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt themselves from liability for assessments by non-use of Common Area, abandonment of a Lot or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association to take some action or perform some function required of it or for inconvenience or discomfort arising from the making of repairs or improvements or from any other action it takes.

The Association shall, on written request from an Owner, Mortgagee or other Person designated by the Owner, furnish a certificate, in recordable form, signed by an officer of the Association setting forth whether assessments for such Owner's Lot have been paid and any delinquent amount. Such certificate shall be binding on the Association, the Board and the Owners. If the Association fails to provide such certificate within seven (7) business days after receipt of a written request, any lien for unpaid assessments then due shall be extinguished, if Oklahoma law requires extinguishment in such case. The

Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

8.8 Lien for Assessments.

All assessments and other charges of the Association authorized in this Article or elsewhere in this Declaration shall constitute a lien against the Lot against which they are levied from the time such assessments or charges become delinquent until paid. The lien shall also secure payment of interest (subject to the limitations of Oklahoma law), late charges (subject to the limitations of Oklahoma law) and costs of collection (including attorneys' fees, lien fees and administrative costs). Such lien shall be superior to all other liens, except those deemed by Oklahoma law to be superior. The Association may enforce such lien, when any assessment or other charge is delinquent, by suit, judgment and foreclosure.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on the Association's behalf; (b) no assessment shall be levied on the Lot; and (c) each other Lot shall be charged, in addition to the usual assessment, its pro rata share of the assessment that would have been charged had such Lot not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Lot shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 8.6 of this Declaration, including such acquirer, the acquirer's successors and assigns.

Notwithstanding any other provision of this Declaration, no governmental authority or public utility shall be liable for assessments on any Dedicated Property. Dedicated Property shall include, without implied limitation, such areas created by or dedicated in the form of easements, including, perpetual easements, tract easements and easements in favor of the City of Oklahoma City or municipal use property.

If only a portion of a Lot is Dedicated Property, any assessments which arose prior to the dedication shall remain due and owing against the non-dedicated portion of the Lot. If the entire Lot is Dedicated Property, such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 8.6 of this Declaration.

In the event that a lien exists on any Dedicated Property: (a) if only a portion of the Lot is Dedicated Property, the lien shall remain in effect with respect to the undedicated portion of the Lot and shall terminate with respect to the Dedicated Property; or (b) if the entire Lot is Dedicated Property, the lien shall terminate with respect to the entire Lot.

8.9 Exempt Property

Notwithstanding any provision to the contrary in the Governing Documents, the following property shall be exempt from payment of Base Assessments, Series Assessments and Special Assessments:

(1) all Common Area and such portions of the property owned by Declarant as are included in the Common Area pursuant to Section 7.2 of this Declaration;

(2) any and all Dedicated Property including, without implied limitation, such areas created by or dedicated in the form of easements, including, perpetual easements, tract easements and

easements in favor of the City of Oklahoma City or property identified on the Development Plan as municipal use property; and

(3) property owned by any Series for the common use and enjoyment of the Members or owned by the Members of a Series as tenants-in-common.

(4) all property held by the Declarant, the Declarant's successors and assigns, provided further that the Declarant, the Declarant's successors and assigns shall be exempt from Specific Assessments and Reserve Assessments.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.10 Limitation on Increases of Assessments.

Notwithstanding any provision to the contrary, the Board may not impose an assessment increase exceeding that allowable under Oklahoma law.

PART FOUR: COMMUNITY DEVELOPMENT

This Declaration reserves various rights to the Declarant in order to facilitate the smooth and orderly development of Sunny Pointe and to accommodate changes in the Development Plan which inevitably will occur as Sunny Pointe grows and matures.

Article 9 Expansion of Sunny Pointe

9.1 Expansion by Declarant.

The Declarant may from time to time subject to the provisions of this Declaration or annex all or any portion of the Properties by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand Sunny Pointe pursuant to this section shall expire when all of the Properties have been subjected to this Declaration or forty (40) years after the Recording of the last Recorded Declaration or Supplemental Declaration whichever is earlier. Until then, Declarant may transfer or assign this right to annex property to any Person who is a purchaser of any portion of the Properties. Declarant shall memorialize such transfer in a Recorded document.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the Properties in any manner whatsoever.

9.2 Expansion by the Association.

The Association may subject additional property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Members representing more than fifty percent (50%) of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration, the consent of Declarant shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property and by Declarant, if Declarant's consent is necessary.

9.3 Additional Covenants and Easements.

Declarant may subject any portion of Sunny Pointe to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4 Effect of Recording Supplemental Declaration.

A Supplemental Declaration shall be effective on Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

9.5 Condominium Conversions.

In the event that any property now or hereafter subjected to this Declaration and located within the property described in Exhibits "A" or "B" is converted to a condominium, the Owner of such property, subject to Declarant's approval requirements below, shall, subject such property to the provisions of this Declaration by Recording a Supplemental Declaration describing the property and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of the Association but shall require the signature of an officer of the Association acknowledging it. In addition, Declarant's prior written consent shall be necessary so long as Declarant owns any property described in Exhibits "A" or "B." Thereafter, each condominium unit within the condominium shall be treated in all respects as a Lot.

Article 10 Additional Rights Reserved to Declarant

10.1 Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as the Declarant has a right to annex additional property pursuant to Section 9.1 of this Declaration, for the purpose of removing from the coverage of this Declaration any portion of Sunny Pointe which has not yet been improved with structures. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if such Owner is not Declarant. If the property to be withdrawn is Common Area, the Association shall consent to such withdrawal.

10.2 Marketing and Sales Activities.

Declarant and Builders authorized by Declarant may construct and maintain on portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model units and sales offices. Declarant and authorized Builders shall have a license with interest for access to and use of such facilities.

10.3 Right to Develop.

Declarant and the Declarant's employees, agents and designees shall have a right of access and use and an easement over and on all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in Sunny Pointe acknowledges that Slimly Pointe is a planned community, the development of which is likely to extend over many years and agrees not to use Association funds to protest, challenge or otherwise object to: (a) changes in uses or density of property outside the Series in which such Person holds an interest; or (b) changes in the Development Plan as it relates to property outside the Series in which such Person holds an interest. To be clear, no Association funds shall be used to challenge, protest, object to or otherwise interfere with the Declarant's development activities in Sunny Pointe.

10.4. Right to Approve Changes in Standards.

No amendment to or modification of any Use Restrictions and Rules shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration.

10.5 Right to Transfer or Assign Declarant Rights.

Any or all of the special rights and obligations of Declarant set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless reduced to a written document signed by Declarant and duly recorded. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.6 Exclusive Rights to use Name of Development.

No Person shall use the name "Sunny Pointe" or any derivative of such name in any printed, electronic or promotional material without Declarant's prior written consent. However, Owners may use the name "Sunny Pointe" in printed or promotional matter where such term is used solely to specify that particular property is located at Sunny Pointe and the Association shall be entitled to use the word "Sunny Pointe" in its name.

10.7 Termination of Rights.

The rights contained in this Article shall not terminate until the earlier of: (a) the date of termination of the Class B Control Period pursuant to Section 9.1 of this Declaration; or (b) Recording by Declarant, in the sole discretion of the Declarant, of a written statement terminating such rights.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association and others in or adjacent to the community.

Article 11 Easements

11.1 Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access and enjoyment in and to the Common Area, subject to:

- (1) The Governing Documents and any other applicable covenants;
- (2) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (3) The Board's right to:
 - (i) adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area: (a) for any period during which any charge against such Owner's Lot remains delinquent; and (b) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of Governing Documents after notice and a hearing pursuant to Section 3.24 of the Bylaws;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
 - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated on the Common Area;
 - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests on payment of use fees established by the Board;
 - (vi) mortgage, pledge or hypothecate any or all of the Association's real or personal property as security for money borrowed or debts incurred;
 - (vii) designate certain areas and facilities within the Common Area as open for the use and enjoyment of the public in accordance with Section 7.10 of this Declaration; and
 - (viii) limit the use of those portions of the Common Area designated "Series Common Areas," as described in Article 12 of this Declaration to the exclusive use of certain Owners.

Any Owner may extend the rights of use and enjoyment hereunder to the members of such Owner's family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases a Lot shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease.

Declarant, so long as Declarant owns any of the Properties and the Association shall have the right to grant easements in and to the Common Area to any service provider or third-party contractor as may be necessary, in the sole discretion of Declarant or the Association, in connection with such service provider's or contractor's provision of services to Sunny Pointe. Any such easements shall be subject to any limitations or restrictions placed on the easement by the grantor. The grantor of such easements, either Declarant or the Association, shall have the right to require specifically that the party exercising the easements, after exercising the easement, take restorative or ameliorative action with respect to the burdened property.

11.2 Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to

willful and knowing conduct on the part of or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3 Easements for Utilities, Etc.

(1) The Properties shall be subject to such easements as are set forth in any and all separate, duly Recorded documents, including without implied limitation, any and all applicable subdivision plats, maps of dedication, easements and easement agreements, subject to such terms, conditions, limitations or restrictions as may be set forth in such separate documents. Such easements may include (but shall not be required to include) easements for ingress and egress, private streets, public and private paths and trails, access for maintenance purposes, drainage and storm drains, landscape irrigation, private and public utilities, open space and visibility, emergency vehicle and service vehicle access. Declarant and the Association, for themselves and their respect successors and assigns, each reserve the right to grant, convey and dedicate over, on, beneath and across any land owned by either, any and all easements deemed appropriate, whether in favor of any governmental entity, including Oklahoma County and the City of Oklahoma City, any public or private utility company or any other third party, on such terms and subject to such conditions, limitations or restrictions as may be necessary or appropriate to carry out the purpose of such easement.

(2) Declarant also reserves for itself and grants to the Association the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant or the Association, as applicable, in connection with the orderly development of any of the Properties, provided, the Association shall have such right and power only with respect to property that has been subjected to this Declaration in accordance with Article 9 of this Declaration and only with respect to any Common Area that is owned by Declarant or the Association, as applicable.

(3) All work associated with the exercise of the easements described in subsections (1) and (2) of this section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. The grantor of the easements described in subsection (1) or (2), either Declarant or the Association, shall have the right to require specifically that the party exercising the easement, after exercising the easement, take restorative or ameliorative action with respect to the burdened property. On completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.4 Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns and mortgagees, an easement over the Association Common Area for the purposes of enjoyment, use, access and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property. In the event of any such damage to the property, whether to natural conditions or structures and regardless of whether such damage is the result of negligent, willful or any other type of action, Declarant or its successors or assigns, whichever is appropriate, shall repair such property and shall restore it to the condition which existed prior to the occurrence of the damage or to the condition any governmental entity having jurisdiction requires, whichever standard is stricter. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter

into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property.

11.5 Easements for Maintenance, Emergency and Enforcement.

Declarant reserves to itself and grants to the Association easements over Sunny Pointe as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2 of this Declaration. The Association shall also have the right, but not the obligation, to enter on any Lot for emergency, security and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce Governing Documents; provided, however, except to avoid imminent threat of personal injury or property damage, entry into any portion of any property not generally open to the public shall only be authorized during reasonable hours and after receipt of the consent of the Owner or occupant, which consent shall not unreasonably be withheld.

11.6 Easements for Irrigation, Detention/Retention Maintenance and Flood Water.

To the extent that any lakes, ponds, channels, detention ponds, retention areas, collections of storm water drainage (collectively, Detention/Retention Area) is located within the Common Area, this Declaration hereby creates, in favor of Declarant and its successors, assigns and designees, the nonexclusive right and easement, but not the obligation, to enter on any Detention/Retention Area located within the Common Area to: (a) install, operate, maintain and replace pumps to supply irrigation water to the Common Area; (b) construct, maintain and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Sunny Pointe-Wide Standard.

To the extent that any Detention/Retention Area is located within the Common Area, this Declaration hereby creates in favor of the Association and its successors, assigns and designees, the nonexclusive right and easement to enter on any Detention/Retention Area located within the Common Area to: (a) install, operate, maintain and replace pumps to supply Detention/Retention Area to the Common Area; (b) construct, maintain and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Sunny Pointe-Wide Standard.

Declarant, the Association and their successors, assigns and designees shall have an access easement over and across any of Sunny Pointe abutting or containing any Detention/Retention Area to the extent reasonably necessary to exercise their rights under this section.

Declarant reserves for itself, the Association and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within one hundred (100) feet of any Detention/Retention Area at Sunny Pointe, in order to: (a) alter in any manner and generally maintain any irrigation lake within the Common Area; and (b) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant, the Association or any other Person liable for damage or injury resulting from flooding or surface runoff due to rainfall or other natural occurrences.

11.7 Easements for Drainage Areas.

This Declaration hereby creates in favor of Declarant, so long as Declarant owns any of the Properties and the Association and their successors, assigns and designees, the nonexclusive right and easement to enter on. drainage ways, drainage culverts, natural drainage areas, washes and wash areas, other areas at Sunny Pointe, including areas within Lots, used to -drain surface runoff and flood waters and any improvements and equipment installed or used in connection therewith (collectively, "Drainage Areas") to install, maintain, repair and replace such areas and property. Except to avoid imminent threat of personal injury or property damage, entry onto any portion of any property not generally open to the public shall only be authorized during reasonable hours and after receipt of the Owner's or occupant's consent, which consent shall not unreasonably be withheld. No Owner shall take any action or allow any

action to be taken on their Lot that would alter the drainage of surface water from their Lot onto any other Lot or the Common Area.

11.8 Easements for Screening and Fencing.

This Declaration hereby creates in favor of Declarant, so long as Declarant owns any the Properties and the Association and their successors, assigns and designees, the nonexclusive right and easement to enter on Lots and other areas within Sunny Pointe, on which screening and fencing has been installed for the purpose of improving the aesthetic quality of Sunny Pointe. Except to avoid imminent threat of personal injury or property damage, entry onto any portion of any property not generally open to the public shall only be authorized during reasonable hours and after receipt of the Owner's or occupant's consent, which consent shall not unreasonably be withheld.

11.9 Mineral Rights.

It is expressly agreed and understood that the title conveyed by Declarant to any Lot by deed or other conveyance shall not in any event be held or construed to include the title to any oil, gas, coal, lignite, uranium, iron ore or any other minerals, water (surface or underground), gas, sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any utility or appurtenances thereto constructed by or under authority of Declarant or its agents or Utility Companies through, along or on said easements or any part thereof to serve said Lot or any other portion of the Properties. Declarant hereby expressly reserves the right to maintain, repair, sell or lease such lines, utilities, drainage facilities and appurtenances to any Utility Company or to any other party. Notwithstanding the fact that the title conveyed by Declarant to any Lot by deed or other conveyances shall not be construed to include the title to oil, gas, coal, lignite, uranium, iron ore or any other minerals, neither Declarant nor any Owner shall have surface access to the Properties for mineral purposes.

Article 12 Series Common Areas

12.1 Purpose.

Certain portions of the Common Area may be designated as Series Common Area and reserved for the primary use or primary benefit of Owners and occupants within a particular Series or multiple Series. By way of illustration and not limitation, Series Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area within a particular Series or multiple Series. All costs associated with maintenance, repair, replacement and insurance of a Series Common Area shall be a Series Expense allocated among the Owners in the Series to which the Series Common Areas are assigned.

12.2 Designation.

Any Series Common Area shall be designated as such in the deed conveying such area to the Association, Supplemental Declaration or on the plat relating to such. Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Series Common Area to additional Lots and/or Series, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1 of this Declaration.

A portion of the Common Area may be assigned as Series Common Area and may be reassigned on approval of the Board and the vote of Members representing a majority of the total Class At votes in the Association, including a majority of the Class "A" votes within the Series affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration, any such assignment or reassignment shall also require Declarant's written consent.

12.3 Use by Others.

In the event Series Common Area should be limited to use by only those Owners within the Series containing limited Series Common Area (Exclusive Series Common Area) and only on approval of a majority of the members of the Series to which any Exclusive Series Common Area is assigned, the Association may permit Owners of Lots in other Series to use all or a portion of such Exclusive Series Common Area on payment of reasonable user fees, which fees shall be used to offset the Series Expenses attributable to such Series Common Area.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Sunny Pointe as a community in which people enjoy living, working and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with its neighbors and protection of the rights of others who have an interest in the community.

Article 13 Dispute Resolution and Limitation on Litigation

13.1 Consensus for Association Litigation.

Except as provided in this section, the Association shall not commence a judicial or administrative proceeding without the approval at least two-thirds (2/3rds) of the Members. This section shall not apply, however, to: (a) actions brought by the Association to enforce Governing Documents (including, without implied limitation, the foreclosure of liens); (b) the imposition and collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against the Association. This section shall not be amended unless such amendment is approved by the percentage of votes and pursuant to the same procedures, necessary to institute proceedings as provided above.

Prior to the Association or any Member commencing any judicial or administrative proceeding to which Declarant is a party and which arises out of an alleged defect at Sunny Pointe or any improvement constructed on Sunny Pointe, Declarant shall have the right to be heard by the Members or the particular Member and to access, inspect, correct the condition of or redesign any portion of Sunny Pointe, including any improvement as to which a defect is alleged. In addition, the Association or the Member shall notify the builder who constructed the subject improvement prior to retaining any other expert as an expert witness or for other litigation purposes.

13.2 Dispute Resolution and Enforcement.

Subject to Section 13.1 of this Declaration, prior to the Declarant, Association or any Member bringing any judicial or administrative proceeding under the Governing Documents or for a claim against the Declarant, Association or any Member, such Person making a claim shall make a good faith attempt to negotiate in person with the other party, including seeking formal pre-litigation mediation, for the resolution of the dispute: In the event good faith negotiations fail to resolve the dispute, the Person shall thereafter be entitled to sue in any court of competent jurisdiction or to initiate proceedings before any appropriate administrative tribunal on their claim. Each party shall bear its own costs of any mediation, including attorneys' fees and each party shall share equally all charges rendered by any mediator. If the parties agree to a resolution of any claim through negotiation or mediation and any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth above. In such event, the party taking action to enforce the agreement shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata) all costs incurred in enforcing such agreement, including, without implied limitation, attorneys' fees and court costs.

Each Owner shall comply strictly with the Governing Documents, including any rules, regulations and resolutions of the Association. Failure to so comply shall be grounds for the taking of such actions elsewhere provided for in the Governing Documents, including, but not limited to, the institution of legal proceedings in an action at law and/or inequity. Should the Declarant or Association engage legal counsel for representation, all costs associated with such engagement, including litigation costs and expenses shall be recovered from the other party, which may be a Specific Assessment if the other party is a Member. No delay, failure or omission on the part of the Declarant or Association in exercising any right, power or remedy provided in these Governing Documents shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach and shall act as no bar to enforcement.

Article 14 Mortgage Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

14.1 Notices of Action.

An institutional holder, insurer or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the street address of the Lot to which the Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (1) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such Eligible Holder;
- (2) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within sixty (60) days;
- (3) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; or
- (4) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

14.2 Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing Section. Unless at least sixty-seven percent (67%) of the first Mortgagees or Members representing at least sixty-seven percent (67%) of the total Association vote consent, the Association shall not:

- (1) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);
- (2) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner of a Lot (a decision, including contracts, by the Board or provisions of any declaration subsequently Recorded on any portion of Sunny Pointe regarding

assessments for Series or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration);

(3) By act or omission change, waive or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations or use restrictions shall not constitute a change, waiver or abandonment within the meaning of this provision);

(4) Fail to maintain insurance, as required by this Declaration; or

(5) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage on the lapse of an Association policy and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

14.3 Other Provisions for First Lien Holders.

To the extent not inconsistent with Oklahoma law:

(1) Any restoration or repair of Sunny Pointe after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Lots to which more than fifty percent (50%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(2) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Lots to which more than fifty percent (50%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

14.4 Amendments to Documents.

The following provisions do not apply to amendments to the Governing Documents or to termination of the Association as a result of destruction, damage or condemnation pursuant to Sections 14.3(1) and (2) of this Declaration, to the addition of land in accordance with Article 9 of this Declaration or to Declarant rights under Article 18 of this Declaration:

(1) The consent of Members representing at least sixty-seven percent (67%) of the Class "A" votes and of Declarant, so long as Declarant owns any land subject to this Declaration and the approval of the Eligible Holders of first Mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Lots subject to a Mortgage appertain, shall be required to terminate the Association.

(2) The consent of Members representing at least sixty-seven percent (67%) of the Class "A" votes and of Declarant, so long as Declarant owns any land subject to this Declaration and the approval of Eligible Holders of first Mortgages on Lots to which more than fifty percent (50%) of the votes of Lots subject to a Mortgage appertain, shall be required materially to amend any provisions of this Declaration, the Bylaws or the Articles or to add any material provisions thereto which establish, provide for, govern or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens or subordination of such liens;
- (iii) reserves for maintenance, repair and replacement of the Common Area;

- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of Sunny Pointe;
- (vii) expansion or contraction of Sunny Pointe or the addition, annexation or withdrawal of property to or from the Association;
- (viii) boundaries of any Lot;
- (ix) leasing of Lots;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer or otherwise convey his or her Lot;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in this Declaration, the Bylaws or Articles which are for the express benefit of holders, guarantors or insurers of first Mortgages on Lots.

14.5 No Priority.

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

14.6 Notice to Association.

On request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

14.7 Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

14.8 Construction of Article 14.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Bylaws or Oklahoma law for any of the acts set out in this Article.

Article 15 Relationship with City of Oklahoma City, Oklahoma County and Media

The Association shall promulgate and implement a process for and shall appoint a member who serves as a single point of contact for the City of Oklahoma City, Oklahoma County, media and members of the public. The responsibilities of such member shall include, without implied limitation, communicating with the City of Oklahoma City regarding maintenance issues within the purview of the Association and answering questions relevant to any matters for which the Association has responsibility or authority.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as Sunny Pointe are dynamic and constantly evolving as circumstances, technology, needs and desires and laws change, as the resident's age and change over time and as the surrounding community changes. Sunny Pointe and the Governing Documents must be able to adapt to these changes while protecting the special features of Sunny Pointe that make Sonny Pointe unique.

Article 16
Changes in Ownership of Lots

Any Owner desiring to sell or otherwise transfer title to a Lot shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date on which such notice is received by the Board or the date title transfers, whichever is later.

Article 17
Changes in Common Area

17.1 Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least sixty-seven percent [67%] of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to this Declaration or which may be made subject to the Declaration in accordance with Section 9.1 of this Declaration) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as set forth in this Article.

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) days after such taking, Declarant, so long as Declarant owns any property subject to this Declaration or which may be made subject to this Declaration in accordance with Section 9.1 of this Declaration and Members representing at least seventy-five percent (75%) of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3.3 of this Declaration regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area or if a decision is made not to repair or restore or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

17.2 Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

17.3 Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to Oklahoma County, Oklahoma, the City of Oklahoma City or to any other local, state or federal governmental or quasigovernmental entity.

Article 18
Amendment of Declaration

18.1 By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration and without restriction by any term within this Declaration, until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose and at any time, including during restrictive periods. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots; or (d) to satisfy the requirements of any local, state or federal governmental agency.

Any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing. In addition, so long as Declarant owns any of the Properties, the Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect on any right of any Owner.

18.2 By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent or any combination thereof, of Members representing seventy-five percent (75%) of the total Class "A" votes in the Association, including seventy-five percent (75%) of the Class "A" votes held by Members other than Declarant and the consent of Declarant, so long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration. In addition, the approval requirements set forth in Article 14, of this Declaration shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

1.8.3 Validity and Effective Date.

No amendment may remove, revoke or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective on Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

18.4 Exhibits.

Exhibits "A," "B," and "E" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above on the signature blocks below.

ERC LAND DEVELOPMENT GROUP, LLC,
an Arkansas limited liability company

By Tracy Markum
Tracy A. Markum, President

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS:

This instrument was acknowledged before me on the 22nd day of March, 2005, by Tracy A. Markum, President of ERC Land Development Group, LLC, an Arkansas limited liability company.

(SEAL)

Luana Pender
Notary Public

My Commission Expires: Aug. 26, 2005
Commission No.: 02147741
Canadian county

EXHIBIT "A"

Real Property

A tract of land located in the Northwest (NW/4) of Section Thirty Two (32), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, (I.M.). Oklahoma County, Oklahoma, being more particularly described as follows:

Commencing at the NW Corner NW/4 Section Thirty Two (32), Township Eleven (11) North, Range Two (2) West of the Indian Meridian; Thence S0°09'48"E along the West line of said NW/4, a distance of 1681.58 feet to the POINT OF BEGINNING; Thence N89°50'12"E a distance of 50.00 feet; Thence S45°08'32"E a distance of 35.37 feet; Thence N89°52'34"E a distance of 380.04 feet; Thence along a curve to the right having a radius of 240.00 feet (having a chord bearing of S71 ° 16'59"E and a chord distance of 155.01 feet) for a arc distance of 157.84 feet; Thence S52°26'32"E a distance of 106.89 feet; Thence along a curve to the left having a radius of 160.00 feet (having a chord bearing of S71°16'59"E and a chord distance of 103.34 feet) for a arc distance of 105.23 feet; Thence N89°52'34"E a distance of 247.80 feet; Thence N44°52'34"E a distance of 35.11 feet; Thence N89°52'34"E a distance of 50.00 feet; Thence along a curve to the left having a radius of 125.10 feet (having a chord bearing of N9°28'23"W and a chord distance of 38.47 feet) for a arc distance of 38.63 feet; Thence along a curve to the right having a radius of 75.00 feet (having a chord bearing of N9°13'17"W and a chord distance of 23.72 feet) for a arc distance of 23.82 feet; Thence N0°07'26"W a distance of 17.54 feet; Thence N89°52'34"E a distance of 460.33 feet; Thence N72°41'28"E a distance of 38.14 feet; Thence N49°39'44"E a distance of 42.21 feet; Thence N44°52'34"E a distance of 88.11 feet; Thence S45°07'26"E a distance of 120.00 feet; Thence N44°52'34"E a distance of 91.59 feet; Thence S45°07'26"E a distance of 178.31 feet; Thence S0°07'26"E a distance of 249.65 feet; Thence S89°52'34"W a distance of 52.50 feet; Thence S0°07'26"E a distance of 170.00 feet; Thence S89°52'34"W a distance of 25.13 feet; Thence S0°07'26"E a distance of 120.00 feet; Thence S89°52'34"W a distance of 214.37 feet; Thence S0°07'26"E a distance of 293.00 feet to a Point on the South line of said NW/4; Thence S89°42'43"W along the South line of said NW/4 a distance of 745.00 feet; Thence N0°08'51"W a distance of 696.39 feet; Thence S89°52'34"W a distance of 142.35 feet; Thence along a curve to the right having a radius of 240.00 feet (having a chord bearing of N71 ° 16'59"W and a chord length of 155.01 feet) for a arc distance of 157.84 feet; Thence N52°26'32"W a distance of 106.89 feet; Thence along a curve to the left having a radius of 160.00 feet (having a chord bearing of N71°16'59"W and a chord length of 103.34 feet) for a arc distance of 105.23 feet; Thence S89°52'34"W a distance of 379.99 feet; Thence S44°51'19"W a distance of 35.34 feet; Thence S89°50'12"W a distance of 50.00 feet to a point on the West line of said NW/4; Thence N0°09'48"W along the West line of said NW/4 a distance of 130.00 feet to the Point of Beginning, said tract of land containing 20.38 acres more or less.

EXHIBIT "B"

Land Subject to Annexation

A tract of land located in the Northwest (NW/4) of Section Thirty Two (32), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, (LM.). Oklahoma County, Oklahoma. Being more particularly described as follows:

Commencing at the NW Corner NW/4 Section Thirty Two (32), Township Eleven (11) North, Range Two (2) West of the Indian Meridian; Thence S0°09'48"E along the West line of said NW/4, a distance of 1681.58 feet; THENCE N89°50'12"E a distance of 50.00 feet; THENCE S45°08'32"E a distance of 35.37 feet; THENCE N89°52'32"E a distance of 380.04 feet; THENCE along a curve to the right having a radius of 240.00 feet (having a chord bearing of S71 ° 16'59"E and a chord distance of 155.01 feet) for an arc distance of 157.84 feet; THENCE S52°26'32"E a distance of 106.89 feet; THENCE along a curve to the left having a radius of 160.00 feet (having a chord bearing of S71'16'59"E and a chord distance of 103.34 feet) for an arc distance of 105.23 feet; THENCE N89°52'36"E a distance of 142.63 feet to the POINT OF BEGINNING; THENCE N00°07'26"W a distance of 973.75 feet; THENCE N89°52'34"E a distance of 641.31 feet; THENCE N75°50'24"E a distance of 82.46 feet; THENCE N89°52'34"E a distance of 189.55 feet; THENCE S76°05'16"E a distance of 82.46 feet; THENCE N89°52'34"E a distance of 680.63 feet; THENCE N66°11'53"E a distance of 77.49 feet; THENCE N90°00'00"E a distance of 928.56 feet; THENCE S06°34'25"W a distance of 49.22 feet; THENCE S42°18'54"W a distance of 509.88 feet; THENCE S25°49'31 "W a distance of 1438.54 feet; THENCE S00°09'42"E a distance of 55.72 feet; THENCE S89°42'43"W a distance of 946.78 feet; THENCE N00°07'26"W a distance of 293.00 feet; THENCE N89°52'34"E a distance of 214.37 feet; THENCE N00°07'26"W a distance of 120.00 feet; THENCE N89°52'34"E a distance of 25.13 feet; THENCE N00°07'26"W a distance of 170.00 feet; THENCE N89°52'34"E a distance of 52.50 feet; THENCE N00°07'26"W a distance of 249.65 feet; THENCE .N45°07'26"W a distance of 178.31 feet; THENCE S44°52'34"W a distance of 91.59 feet; THENCE N45°07'26"W a distance of 120.00 feet; THENCE S44°52'34"W a distance of 88.11 feet; THENCE S49°39'44"W a distance of 42.21 feet; THENCE S72°41'28"W a distance of 38.14 feet; THENCE S89°52'34"W a distance of 460.33 feet; THENCE S00°07'26"E a distance of 17.54 feet; THENCE along a curve to the left having a radius of 75.00 feet (having a chord bearing of S09°13'17"E and a chord distance of 23.72 feet) for an arc distance of 23.82 feet; THENCE along a curve to the right having a radius of 125.10 feet (having a chord bearing of S09°28'22"E and a chord distance of 38.47 feet) for an arc distance of 38.63 feet; THENCE S89°52'34"W a distance of 50.01 feet; THENCE S44°52'34"W a distance of 35.11 feet; THENCE S89°52'36"W a distance of 105.17 feet to the POINT OF BEGINNING, said tract of land containing 66.86 acres more or less.

LESS AND EXCEPT public rights of way for ingress and egress and conveyances to the Association of Common Areas.

EXHIBIT "C"

Initial Use Restrictions and Rules for Sunny Pointe

The following Use Restrictions and Rules for Sunny Pointe attached to and made a part of that certain Declaration of Covenants, Conditions and Restrictions for Sunny Pointe, a Residential Community to the City of Oklahoma City, Oklahoma County, Oklahoma shall apply to all of Sunny Pointe until such time as amended, modified, repealed or limited by rules of the Association adopted present to Article 3 of the Declaration. Unless otherwise defined herein, words bearing initial capital letters shall have the meanings ascribed to them in the Declaration.

1. General. Sunny Pointe shall be used only for single-family residential purposes and related purposes (which may include, without implied limitation, an information center and/ or a sales office for any real estate broker retained by the Declarant to assist in the sale of real property described in Exhibits "A" or "B," offices for any property manager retained by the Association or business offices for the Declarant or the Association) consistent with the Declaration and any Supplemental Declaration. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, without implied limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment, or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the residential dwelling constructed on such Lot (Residential Dwelling). The term "single family residential purposes" shall also be defined as: (a) one (1) or more individuals related by blood, marriage or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents and their dependent grandparents; (b) no more than two (2) unrelated individuals living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents and their dependent grandparents; and (c) in no event shall any Residential Dwelling be occupied by more individuals than the product of the total number of bedrooms contained in the Residential Dwelling multiplied by two (2). No Owner shall use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would: (i) void any insurance in force with respect to the Properties; (ii) make it impossible to obtain any insurance required by this Declaration; (iii) constitute a public or private nuisance, which determination may be made by the Board in the Board's sole discretion; (iv) constitute a violation of this Declaration or any applicable law; (v) unreasonably interfere with the use and occupancy of the Properties by other Owners; or (vi) generate an unreasonable amount of vehicular traffic within the Properties.

2. Restrictions. The following activities are prohibited at Sunny Pointe unless expressly authorized by and then subject to such conditions as may be imposed by the Board:

2.1 Parking; Vehicles. Except as otherwise provided in this Declaration, no Owner, lessee, tenant or occupant of a Lot, including all individuals who reside with such Owner, lessee or occupant on the Lot, shall park, keep or store any passenger vehicle or pick-up truck on a street or on a driveway for a period for longer than forty eight (48) consecutive hours. For purposes of this Declaration, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Oklahoma or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Oklahoma, and the term "pick-up truck" is limited to up to a three quarter (3/4) ton capacity pick-up truck which has not been adapted or modified for commercial use. The Association shall have the right to cause any vehicle in violation of any of the foregoing restrictions to be towed in the manner provided in the Oklahoma Transportation Code." No passenger vehicle, pick-up truck, mobile home trailer, recreational vehicle, boat or other vehicle of any kind shall be constructed, reconstructed or repaired (including, without implied limitation, oil changes) on any Lot, Common Area, or street, whether or not such street is dedicated, within the Properties. No mobile home trailers, recreational vehicles (whether for land or water), boats, boat rigging, trailers or camper shall be parked, kept or stored on any street, whether or not dedicated, for any length of time or on the driveway of any Lot for more than seventy-two (72) hours in any thirty (30) day period.

2.2 Pets. Raising, breeding or keeping animals, livestock or poultry of any kind, except that no more than three (3) dogs, cats or other usual and common household pets may be permitted in a Lot, provided the total weight of such two household pets does not exceed one hundred fifty (150) pounds. However, those pets which are permitted to roam free or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of or constitute a nuisance or inconvenience to the occupants of other Lots shall be removed on the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. The Board shall have the authority to determine, in the Board's sole discretion, whether a particular pet is a usual and common household pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law;

2.3 Noxious, Offensive Activity. Any activity which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Lots, or allowing my omission or commission any condition to exist on a Lot that would induce, breed or harbor infectious disease or insects;

2.4 Violations of Law. Any activity that violates local, state or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

2.5 Healthy Environment. Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Lot;

2.6 Common Area Uses. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance or nuisance to persons using the Common Area or to the occupants of other Lots;

2.7 Burning. Outside burning of any type, including without implied limitation, the burning of trash, leaves, debris or other materials;

2.8 Audible Discharge. Use or discharge of any radio, loudspeaker, horn, whistle, bell or other sound device so as to be audible to occupants of other Lots, except alarm devices used exclusively for security purposes;

2.9 Firecrackers, Firearms and Explosives. Use and discharge of firecrackers and other fireworks, firearms and other explosives, provided, the Board shall have no obligation to take action to prevent or stop such discharge;

2.10 Dumping. Dumping grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances on any Lot or Common Area and in any drainage ditch, stream, pond or lake or elsewhere within Sunny Pointe, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff and Declarant may dump and bury rocks and similar materials;

2.11 Accumulation of Debris. No garbage or trash shall be placed or kept within the Properties except in covered containers of a type, size and style provided by the City of Oklahoma City or in the alternative, as approved by the Design Review Board. In no event shall any such containers be maintained on a Lot so as to be visible from any Street in the Properties or any neighboring Lot except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection;

2.12 Obstructions. Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent;

2.13 Subdivision of Lots. Subdivision of a Lot into two or more Lots or changing the boundary lines of any Lot after a subdivision plat including such Lot has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Lots which it owns;

2.14 Use of Water Areas. Swimming, boating, use of personal flotation devices or other active use of lakes, ponds, streams or other bodies of water within Sunny Pointe is prohibited; provided, however, Declarant, its successors and assigns and the Association, after Declarant terminates the Declarant's right to annex additional land or no longer owns any Lots, shall be permitted and shall have the exclusive right and easement to retrieve materials and objects from bodies of water within the Common Areas and to draw water from lakes, ponds and streams within Sunny Pointe for purposes of irrigation and such other purposes as Declarant or, as applicable, the Association deems desirable. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to Sunny Pointe;

2.15 Investment Uses. Use of any Lot for operation of a timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Lots which it owns;

2.16 Combustible Materials. On-site storage of gasoline, heating or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment, except as granted by Declarant;

2.17 Business Uses. Any business, trade or similar activity, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (ii) the business activity conforms to all zoning requirements for Sunny Pointe; (iii) the business activity does not involve door-to-door solicitation of residents of Sunny Pointe or constitutes a day care facility; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Sunny Pointe which is noticeably greater than that which is typical of Lots in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Sunny Pointe and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of Sunny Pointe, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing of a Lot shall not be considered a business or trade within the meaning of this subsection, unless such leasing occurs in violation of any other Governing Document pertaining to leasing. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of Sunny Pointe or its use of any Lots which it owns within Sunny Pointe, including the operation of a timeshare or similar program;

2.18 Wildlife. Capturing, trapping or killing of wildlife within Sunny Pointe, except in circumstances posing an imminent threat to the safety of persons using Sunny Pointe;

2.19 Preservation of Natural Resources. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands or air quality within Sunny Pointe or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

2.20 Vehicle Storage Conversions. Conversion of any or garage to finished space for use as an apartment or other integral part of the living area on any Lot;

2.21 Operation of Motorized Vehicles. Operation of motorized vehicles, including but not limited to motorcycles, scooters, mopeds, go-carts and golf carts, on sidewalks, pathways or trails, except that motorized carts may be operated by those requiring the same for medical purposes; and

2.22 Construction Activities. Any construction, erection, placement or modification of anything, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article 4 of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens or fences of any kind; satellite dishes and antennas, except that:

2.22.1 an antenna designed to receive direct broadcast satellite services, including direct to-home satellite services, that is one meter or less in diameter;

2.22.2 an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

2.22.3 an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Lots, subject to such reasonable requirements as to location and screening as may be set forth in the Design Review Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish or other apparatus for a master antenna, cable or other communication system for the benefit of all or a portion of Sunny Pointe, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at Sunny Pointe:

3.1 Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of Sunny Pointe. Further, no grasses on any Lot shall be allowed to grow higher than six (6) inches;

3.2 Structures, equipment or other items on the exterior portions of a Lot which have become rusty, dilapidated or otherwise fallen into disrepair; and

3.3 Sprinkler or irrigation systems or wells of any type which draw on water from lakes, creeks, streams, rivers, ponds, wetlands, canals or other ground or surface waters within Sunny Pointe, except that Declarant and the Association shall have the right to draw water from such sources.

3.4 Outbuildings, Temporary Structures. No temporary sheds, outbuildings or temporary accessory buildings are allowed. Any sheds, outbuildings or accessory buildings of a permanent nature must obtain Design Review Board approval prior to installation pursuant to Article 4 of the Design Review Guidelines.

3.5 Use of the "Sunny Pointe" name or any derivation thereof without written approval of the Board, including but not limited to: use in advertising and marketing materials, web sites, message boards, and web logs. The Declarant and/or Association retain and expressly claim all intellectual property rights associated with the mark "Sunny Pointe."

4. Leasing of Units. "Leasing, leased, and lease" for purposes of this paragraph, is defined as regular, exclusive occupancy of a Lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. "Owner Occupied Lots" are defined for purposes of this paragraph as Lots occupied solely by the Owner, the members of the family of the Owner or other guests and invitees of the Owner who occupy without the payment of rent, as the occupant's principal residence or second home. This paragraph expressly limits and controls Section 3.4(5) of the Declaration.

4.1 Leasing Restricted. Subject to Declarant's absolute and subjective discretion during the Class "B" Control Period, and thereafter in the Association, Lots may be leased within the Properties provided the total percentage of leased Lots within the Properties shall not exceed five percent (5%) of the total number of Lots within the Properties. Any Owner seeking to lease a Lot shall submit a written request to the Declarant at the address provided for the Design Review Board requesting the Declarant's approval of the proposed lease. Upon the occurrence of a decrease below five percent (5%) of non-Owner Occupied Lots within the Properties, Lots will be permitted to be leased on a first bona fide request, first permitted basis, until the number of Lots which are leased reaches five percent (5%), at which time no further Lots shall be leased until the number of leased Lots drops below five percent (5%). Except for the Declarant and Builders who own more than one Lot for the sole purpose of construction of a residences, no single entity (the same Person, individual, investor group, partnership, or corporation, or any affiliate thereof) shall own more than one Lot.

In order to administer the above regulation, all Persons purchasing a Lot within the Properties shall, simultaneous with closing of such Lot, provide the Declarant or Association with a certification stating: (a) that the Lot will not be occupied as the purchaser's principle residence or second home, or (b) covenanting and agreeing with the Association that the purchaser will occupy the Lot as an Owner Occupied Lot.

The Association will keep a record of the Owner Occupied Lots and leased Lots (if any). Each lease shall be for a term of no less than twelve (12) months, shall be in writing, and shall expressly provide that each lessee agrees to the terms of the Governing Documents. Upon execution of any lease, each Owner shall provide the Declarant or, if applicable, the Association, a copy of such lease.