

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
SUMMER CREEK, PHASE III**

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 24th day of March, 1994, by PERRY HOMES, a Texas joint venture herein referred to as ("Declarant");

W I T N E S S E T H :

WHEREAS, Declarant is the owner of the real property located in Tarrant County, Texas as more particularly described as follows (herein referred to as the "Property"):

All of Summer Creek Addition, Phase III, an addition to the City of Fort Worth, Tarrant County, Texas, according to the map or plat thereof recorded in Cabinet A, Slide 1437, of the Plat Records in Tarrant County, Texas, save and except Lot 10, Block 12.

and Declarant desires to create on and in regard to said Properties a residential community with residential lots, open spaces, and other common facilities for the benefit of the community; and

WHEREAS, Declarant desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Property and each owner of any part thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in such community for the Summer Creek Homeowners Association to be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions herein contained and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Property is benefited by certain entry features, landscaping and other amenities that are now maintained by Summer Creek Homeowners Association ("the Association");

NOW, THEREFORE, Declarant declares that the Property is, and shall be held, transferred sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "Covenants, Conditions and Restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

The following words when used in this Declaration shall have the following meanings:

- (a) "Association" shall mean and refer to the Summer Creek Homeowners Association.
- (b) "Declarant" shall mean and refer to Perry Homes and its successors and assigns, if: such successors and assignees, should acquire more than one Lot from Perry Homes; and (ii) any such assignee shall receive by assignment from Perry Homes all or a portion of the rights of Perry Homes hereunder as such Declarant, by and instrument expressly assigning such rights as Declarant to such successor or assignee.
- (c) "Lot" shall mean and refer to each of the tracts or plots of land other than the Common Property lying within the Property and subdivided into a residential building lot.
- (d) "Owner" shall mean and refer to every person or entity who is a record owner of the fee or undivided fee interest in any Lot which is subject by covenant of record to assessment by the Association, including contract sellers. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.
- (e) "Member" shall mean and refer to each Owner as provided herein in Article II.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot shall automatically be a Member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Membership. The association shall have two classes of voting membership:

CLASS A. Class A Members shall be all Members with the exception of Declarant. Each Class A Member shall be entitled to one vote for each Lot in which such Class A Member holds the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves,

determine, but in no event shall more than one vote be cast with respect of any such Lot.

CLASS B. The Class B Member shall be the Declarant. A Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership; however, at such time as the total number of Lots owned by the Class A Members in Phase III equals or exceeds three (3) times the total number of Lots owned by the Class B Member, the Class B Member shall, during the time such equality or excess continues, be entitled to only one (1) vote for every Lot owned by the Class B Member.

Section 3. Quorum and Notice Requirements.

(a) Subject to the provisions of paragraph (c) of this Section, any action authorized by Section 4 of Article IV hereof shall require the consent of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for that purpose, written notice of which shall be given to all Members not less than thirty (30) days nor more than sixty (60) days in advance and shall set for the purpose of such meeting.

(b) The quorum required for any action referred to in paragraph (a) of this Section shall be as follows:

At the first meeting called, the presence at the meeting of Members, or of proxies of non-present Members, entitled to cast sixty per cent (60%) of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not present at the meeting, one additional meeting may be called, subject to the notice requirement hereinabove set forth, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however, that no such second meeting shall be held more than sixty (60) days following the first meeting.

(c) Any provision of the Declaration to the contrary notwithstanding, any action referred to in paragraph (a) of this Section may be taken with the consent given in writing and signed by two-thirds (2/3) of the Members of each class.

(d) Except as specifically set forth in this Declaration, notice, voting and quorum requirements for all action to be taken by the Association shall be set for in its Articles of Incorporation and Bylaws, as same may be amended from time to time.

ARTICLE III

ADDITIONAL PROPERTY: SUPPLEMENTAL DECLARATION

Section 1. Annexation of Additional Property. If Declarant is the owner, from time to time, of any property adjacent to either Phases I, II, III of Summer Creek Addition ("Additional Property") which it desires to add to the scheme of this Declaration, it may do so by filing of record a Supplemental Declaration (herein so called) which shall extend the scheme of this Declaration to such Additional Property; provided, however, that such Supplemental Declaration, as applied to the Additional Property covered thereby, may include such specific additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens as may be set forth in such Supplemental Declaration.

Section 2. Contents of Supplemental Declaration. Each Supplemental Declaration shall set forth the Controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens to which the Additional Property covered thereby shall be subject. Such controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens may contain additions, deletions and modifications from those in this Declaration, as the parties subjecting such Additional Property to the scheme of this Declaration may desire; provided if such party is other than Declarant, as a condition to such party's right to so impose such additions, deletions or modifications, such party must obtain the prior written consent thereto of Declarant and the Association, acting through its Board. In no event, shall such Supplemental Declarations, restrictions, easements, development guidelines, charges and liens established by this Declaration or a previously filed Supplemental Declaration as it applied or they apply to the Properties or to previously added Additional Property.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Property, hereby covenants and agrees, and each purchaser of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association (or to a mortgage company or other collection agency designated by the Association): (1) annual assessments or charges; (2) special assessments for capital improvements and other Associations obligations not paid for by other assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided; (3) individual special assessments levied against individual Lot Owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the individual Owner, his family, tenants, agents, guests and invitees, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular, annual assessments thus collected by the Association shall constitute

the maintenance fund of the Association. The annual, special capital and special individual assessments, together with interest thereon and cost of collection thereof as a continuing lien upon each Lot against which each such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of the Lots(s) to which such assessment relates at the time when the assessment fell due. The annual assessments shall be payable in annual installments as provided in Section 6 of this Article IV.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used (i) for the purpose of promoting the recreation, health, safety and welfare of the residents of the Properties, and in particular for the improvement and maintenance of the Common Properties, Landscaped Rights-of-Way and private roadways, paths, walkways, or other property, services and facilities devoted to this in such manner as may be determined by the Board of Directors, including, but not limited to the payment of taxes and insurance in connection with such Common Properties and the repair, replacement and additions thereto; and (ii) for carrying out the duties of the Board of Directors of the Association as set forth there in Article 7 hereafter and (iii) carrying out the purposes of the Association as stated in its Articles of Incorporation.

Section 3. Basis and Amount of Annual Assessments.

- (a) Until the year beginning January 1, 1995, the maximum annual assessment shall be Sixty and No/100 (\$60.00) Dollars for each Lot. Until such date the Board of Directors may fix the annual assessment at an amount not in excess of the maximum specified above.
- (b) Commencing with the year beginning January 1, 1995, and each year thereafter, the Board of Directors may set the amount of the annual assessment for the ensuing year for each Lot, however, (i) the annual assessment for each Lot shall not exceed 110% of the annual assessment for such Lot for the preceding year unless the Class B Members and at least seventy five (75%) of the Class A Member shall approve a higher assessment, and (ii) the maximum assessment assessed for each Lot owned by Declarant, at the time of annual assessment, shall be fifty percent (50%) of the maximum amount assessed against each Lot owned by other Members

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 4 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, costs and expenses incurred by the Association pursuant to its powers as described herein or in its Articles of Incorporation; PROVIDED THAT any such assessment shall have the affirmative approval of the Association's Members, as provided in Section 3 of Article II.

Section 5. Uniform Rate of Assessments. Both annual and special assessments (excepting therefrom special individual assessments) must be fixed at a uniform rate for all Lots (subject to the provisions set forth above concerning Lots owned by Declarant).

Section 6. Date of Commencement of Assessments: Due Dates.  
The annual assessments provided for herein shall commence as to all Lots on April 1, 1994 and shall be payable in equal annual installments, in advance, on the first day of each January thereafter. The first annual assessment shall be made for the balance of the calendar year in which it is levied. The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessments provided for in Section 3 hereof as the remaining number of months in that year bears to twelve. The due date or dates, if it is to be paid in installments, of any special assessment under Section 4 hereof or of any special individual assessment under Section 1 hereof, shall be fixed in the respective resolution authorizing such assessment.

Section 7. Duties of the Board of Directors with Respect to Assessments.

- (a) The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and shall, and at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.
- (b) Written notice of each assessment shall thereupon be delivered or mailed to every Owner subject thereto.
- (c) The Board of Directors shall upon demand at any time furnish to any Owner liable for an assessment a certificate in writing signed by an officer or agent of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors for the issuance of such certificates.

Section 8. Effect of Nonpayment of Assessment: The Personal Obligation of the Owner; the Lien; Remedies of Association.

- (a) If any assessment or part thereof is not paid on the date(s) when due (being the dates specified in Section 6 of this Article), then the unpaid amount of such assessment shall become delinquent and shall, together with interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot of the nonpaying Owner which shall bind such Lot in the hands of the Owner, his heirs, executors, devisees, personal

representatives, successors and assignees. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them (but no such assumption shall release such prior Owner from his personal liability to pay such assessment). The lien for unpaid assessments (including interest and costs) shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the assessment (including interest and costs) provided herein by non-use of the Common Properties or abandonment of his Lot.

- (b) If any assessment (including interest and costs) or part thereof is not paid within thirty (30) days after the date such assessment is due, the unpaid amount of such assessment shall bear interest from the date of delinquency at the rate equal to the lesser of the highest lawful rate that may be charged in regard thereto or eighteen percent (18%) per annum, and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the Lot(s) subject thereto and there shall be added to the amount of such assessment the costs of preparing and filing a complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fee's to be fixed by the court, together with the costs of the action.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate and inferior to the lien of any first mortgage or deed of trust now or hereafter placed upon a lot subject to assessment if the mortgage or deed of trust is placed upon the Lot at a time when no default has occurred and is then continuing in the payment of any portion of the annual assessment for such Lot; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale, whether public or private, or such property pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve such Lots from liability for the amount of any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

Section 10. Omission of Assessments. The omission of the Board of Directors, before the expiration of any year or as provided in Section 7 of this Article, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

ARTICLE V

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

Section 1. Powers and Duties. The Board of Directors, for the benefit of the Property and the Owners, shall provide, and shall pay for out of the maintenance fund provided for in Section 1 of Article IV above, the following:

- (a) The services of a person or firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board of Directors, and the services of such other personnel as the Board of Directors shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board of Directors or by any manager hired by the Board of Directors.
- (b) Legal and accounting services.
- (c) A policy or policies of insurance insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants), incident to the operation of the Association, in an amount not less than \$250,000.00 to identify against the claim of one person, \$500,000.00 against the claims of two or more persons in any one occurrence, and property damage insurance in an amount not less than \$100,000.00 per occurrence; which policy or policies shall contain an endorsement providing that the rights of the named insured shall not be prejudiced with respect to actions against other named insured; provided, that under no circumstances shall the Board of Directors, be authorized to provide or pay for fire, casualty or other insurance insuring the interest of any Owner in his Lot.
- (d) Worker's Compensation insurance to the extent necessary to comply with any applicable laws.
- (e) Such fidelity bonds as may be required by the Bylaws or as the Board of Directors may determine to be advisable.
- (f) Any other materials, supplies, insurance on Association-owned or controlled property, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments (including taxes or assessments assessed against an individual Owner) which the Board of Directors is required to obtain or pay for pursuant to the terms of this Declaration or the City Agreement or by law or which in its opinion shall be necessary or proper for the operation or

protection of the Association or for the enforcement of this Declaration.

The Board of Directors shall have the following additional rights, powers and duties:

- (g) Subject to the provisions of the Articles for Incorporation, to borrow funds to pay costs of operation, secured by assignment or pledge of rights against delinquent Owners and/or subsequent assessments, if the Board of Directors sees fit.
- (h) To enter into contracts maintain one or more bank accounts, and, generally to have all the powers necessary or incidental to the operation and management of the Association, expressly including the power to enter into management and maintenance contracts.
- (i) To make available to each Owner within sixty (60) days after the end of each year an annual report concerning the operation of the Association for the prior year.
- (j) To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency.
- (k) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.
- (l) To perform the duties of the Committee, as hereinafter defined, in regard to Lots on which residential improvements have been constructed and for which a permanent certificate of occupancy has been received, as provided in Article VII, Section 6 hereafter.

Section 2. Board of Directors' Power. The Board of Directors shall have the exclusive right to contract for all goods, services, and insurance, payment for which is to be made from the maintenance fund, and the exclusive right and obligation to perform the functions of the Board of Directors, except as otherwise provided herein.

Section 3. Owner's Obligation to Repair. Except for those portions, if any, of each Lot and the Property which the Association is required to maintain or repair hereunder, each Owner shall, at his sole cost and expense, maintain and repair his Lot and the improvements situated thereon, keeping the same in good condition and repair. In the event that any Owner shall fail to maintain and repair his Lot and such improvements as required hereunder, the Association, in addition to all other remedies available to it hereunder or are at law or in equity, and without waiving any of said alternative remedies, shall

have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon; and each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand, and the failure of any such Owner to pay the same shall carry with it the same consequences as the failure to pay any assessment hereunder when due.

Section 4. Maintenance Contracts. The Board of Directors, on behalf of the Association, shall have full power and authority to contract with any Owner for the performance by the Association required to perform pursuant to the terms hereof, such contracts as the Board of Directors may deem proper, advisable and in the best interest of the Association.

## ARTICLE VI

### USE OF LOTS AND COMMON PROPERTY- PROTECTIVE COVENANTS

The Property (and each Lot situated therein) occupied and/or used as follows:

Section 1. Residential Purposes Only. The Properties and each Lot shall be used exclusively for single-family residential purposes, and garages, carports, and parking spaces shall be used exclusively for the parking of passenger automobiles thereon. No planes, trailers, boats, campers, abandoned cars or trucks shall be parked or housed in garages, carports, and parking spaces except as otherwise provided in Section 11 of this Article. No trade or business of any kind shall be conducted upon a Lot or any part thereof. No structure shall be erected, placed, altered, used or permitted to remain on any Lot other than one detached single-family private dwelling not to exceed two stories, and one private garage for not more than four (4) automobiles.

Section 2. Obstructions, etc. There shall be no obstruction of the Common Properties, nor shall anything be kept or stored in such common properties, nor shall anything be altered, or constructed or planted in, or removed from, such common properties, without the written consent of the Board of Directors.

Section 3. Restricted Actions by Owners. No Owner shall permit anything to be done or kept on his Lot or in any other part of the Property which will result in the cancellation of or increase of cost of any insurance carried by the Association, or which would be in violation of any law. No waste shall be committed in any Lot or in any other part of the Property. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to such Owner's Lot(s).

Section 4. Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than ten (10) square feet (i) advertising the Lot for sale or rent, (ii) advertising the building contractor constructing improvements on the Lot during the initial construction and sales period, and (iii)

identifying the sales office and/or model home of a building contractor who owns the Lot; however, the foregoing shall act to restrict or prohibit Declarant from erecting and maintaining signs and billboards advertising the Property or portions thereof. Notwithstanding the foregoing, all signs erected and maintained on any Lot must conform with all applicable governmental requirements.

Section 5. Nuisances. Nothing shall (i) be done in any part of the Properties, nor shall (ii) any noxious or offensive activity be carried on, nor shall (iii) any outside lighting or loudspeakers or other sound-producing devices be used, which, in the judgment of the Board of Directors, may be or become an unreasonable annoyance or nuisance to the other Owners.

Section 6. Attachments. No permanent attachments of any kind or character whatsoever (including, but not limited to, television and radio antennas) shall be made to the roof or walls of any residence on a Lot, unless such attachments shall have been first submitted to an approved by the Committee.

Section 7. Rules of the Board of Directors. All Owners and occupants of any Lot shall abide by all applicable rules and regulations adopted by the Board of Directors. The Board of Directors shall have the power to enforce compliance with said rules and regulation by all appropriated legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including attorneys' fees.

Section 8. Animals. No animals, livestock or poultry shall be raised, bred or kept in any portion or the Property except that dogs, cats or other household pets may be kept, but not for any commercial purposes, provided that they do not create a nuisance.

Section 9. Waste. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Waste of any nature shall not be kept on any part of the Property except in sanitary containers.

Section 10. Boats. Neither a motorboat, houseboat or other similar water-borne vehicle nor any "camper" vehicle may be maintained, stored or kept on any portion of the Property, except in enclosed garages or in areas specifically designated by the Board of Directors.

Section 11. Garage Openings. No garage shall open onto a street in the Property unless a specific variation is approved in writing by the Committee prior to the issuance of a certificate of occupancy for that specific dwelling.

Section 12. Floor Areas. The floor area of the main dwelling house on each Lot, exclusive of porches, terraces, garages and outbuildings, shall contain not less than 2,000 square feet of space and the ground floor of each such main dwelling house, shall contain not less than 1,200 square feet of space.

Section 13. Exterior Finish; Roof Materials. The exterior of each building erected on a Lot shall not be less than 75% brick, stone,

stucco or other masonry, unless the Committee shall issue a special variance allowing a particular dwelling described in such variance to have a different type (or percentage) exterior. Attached garages shall be of the same construction and exterior finish as the house. Detached accessory buildings shall be of the same construction and material listed in this Section. All roofs on all improvements constructed on each Lot shall be of wood shingle, clay tile or heavy weight (at least 240 pounds) self-seal composition shingles or such other materials as may be specifically approved by the Committee, and shall have at least a seven (7') foot to twelve (12') foot pitch.

Section 14. Building Lines. The main building on each Lot (and all required parking for such Lot) shall not be located on any Lot nearer to the Lot boundary line than the building setback line required by applicable zoning laws, other governmental requirements or filed subdivision plat relating to such Lot.

Section 15. New Construction. Construction of new buildings only shall be permitted on Lots, it being the intent of this covenant to prohibit the moving of any existing building onto a Lot and remodeling or converting same into a dwelling house.

Section 16. Limitation of Truck Parking and Other Vehicles. Trucks with tonnage in excess of three-quarters ton shall not be permitted to park overnight on the streets, driveways or otherwise with the Properties. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Properties at any time.

Section 17. No Temporary Structure. No structure of a temporary character, such as a trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a dwelling house.

Section 18. No Drilling or Mining. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in quarrying for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 19. Water System. No individual water supply system shall be permitted on any Lot.

Section 20. Sewer Systems. No individual sewerage system shall be permitted on any Lot.

Section 21. Fences and Walls. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the building setback line as described in Section 14 above for such Lot and shall not exceed eight (8') feet in height unless otherwise specifically required by governmental authorities having jurisdiction. All fences shall be maintained in a structurally sound and attractive manner.

Section 22. Sight Line Limitations. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2') and six (6') feet above roadways shall be placed or permitted to

remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at a point twenty (20') feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersections of the street property lines extended. The same sight lines shall apply on a Lot within ten (10') feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

Section 23. Completion of Residence. If a residence is not completed on a Lot on or before one (1) year from the date construction thereof commences, the Owner of such Lot will pay to Declarant the sum of \$25.00 per day as liquidated damages; provided, however, that in the event the Owner or its agents are unable to complete the residence within the one (1) year period due to strikes, natural disasters, catastrophic economic conditions, wars, or for any other reason which is not the fault of the Owner, then and in that event, the one (1) year period shall be extended by the number of days during which such unforeseen conditions as above set out exist.

Section 24. Gas Meters. No gas meters shall be near the street in the front of a residence on a Lot unless such meter is of an underground type.

Section 25. Air Conditioning Equipment. No air conditioning apparatus shall be installed on the ground in front of any residence on a Lot. No air conditioning apparatus shall be attached to any front wall of a residence on a Lot. No evaporative cooler shall be installed on the front wall or the side wall of a residence on a Lot.

Section 26. Underground Utilities and Screening. All utilities and utility connections, including, without limitation, electrical, telephone and television cables and wires, shall be located underground except where overhead service is specifically provided for in easements of record adjacent to the site in question.

Section 27. Governmental Requirements. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of the improvements on and/or use and utilization of any Lot (including, without limitation, those contained in any applicable zoning ordinances) shall continue to be applicable and shall be complied with in regard to the Lots.

## ARTICLE VII

### ARCHITECTURAL CONTROL

Section 1. General. Anything contained in the foregoing Article VI of this Declaration to the contrary notwithstanding, no erection of buildings or exterior additions or alterations to any building situated upon the Property nor erection of or changes or additions in fences, hedges, walls and other structures, nor construction of any swimming pools or other improvements, shall be commenced, erected or maintained on any Lot until the Architectural Control Committee (herein called the

"Committee") has approved the plans and specifications therefor and the location of such improvements; provided, however, that the provisions of this Article VII shall not apply to buildings, structure, additions, and alterations commenced, erected or maintained by Declarant.

Section 2. Composition. So long as either Declarant owns a Lot, Declarant shall appoint the Committee which will be composed of three (3) individuals, each generally familiar with residential and community development design matters and knowledgeable about the Declarant's concern for a high level of taste and design standards within the Property. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate and appoint a successor, and if such remaining members fail to do so within sixty (60) days following such death or resignation, Declarant, if either Declarant then still owns a Lot, may appoint a successor, and if neither Declarant then still owns a lot, the Committee shall be liable for claims, causes of a action or damages (except where occasioned by gross negligence or willful misconduct of such member) arising out of services performed pursuant to this covenant.

Section 3. Procedure. No building, structure, fence, wall or improvement of any kind or nature shall be erected, remodeled or placed on any Lot until all plans and specifications therefore and a plot plan therefor have been submitted to and approved in writing by the Committee, as to:

- (i) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and facing of main elevation with respect to nearby streets;
- (ii) conformity and harmony of the external design, color, type and appearance of exterior surfaces;
- (iii) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots and improvements situated thereon and drainage arrangement;
- (iv) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Committee, or matters in which the Committee has been vested with the authority to render a final interpretation and decision.

Final plans and specifications for all improvements proposed to be constructed on a Lot shall be submitted in duplicate to the Committee for approval or disapproval. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans and specifications will be marked "Approved" and returned to the Lot Owner or his designated representative. If found not be in compliance with these Covenants, Conditions and Restrictions or if found to be otherwise unacceptable to the Committee pursuant hereto, one set of plan and specifications shall be returned to the Lot Owner marked

"Disapproved," accompanied by a reasonable statement of items found not to be in compliance with these Covenants, Conditions and Restrictions or otherwise being so unacceptable. Any modification or change to the Committee-approved set of plans and specifications prior to the issuance of a certificate of occupancy must again be submitted to the Committee for its inspection and approval. The Committee's approval or disapproval, as required herein, shall be in writing.

The Committee may from time to time publish and promulgate architectural standards bulletins which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of these Covenants, Conditions and Restrictions. Although the Committee shall not have unbridled discretion with respect to taste, design and any standards specified herein, the Committee shall be responsive to technological advances or general changes in architectural designs and materials and related conditions in future years and use its best efforts to balance the equities between matters of taste and design (on the one hand) and use of private property (on the other hand). Such bulletins shall supplement these Covenants, Conditions and Restrictions and are incorporated herein by reference.

Section 4. Jurisdiction. The Committee is authorized and empowered to consider and review any and all aspects of the construction of any improvements on a Lot which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more Owners or the general value of the Property.

Section 5. Enforcement. The Committee shall have the specific, nonexclusive right (with both the Association, acting through the Board of Directors, and Declarant) right (but no obligation) to enforce the provision contained in this Article of these Covenants, Conditions and Restrictions and/or to prevent any violation of the provisions contained in this Article of these Covenants, Conditions and Restrictions by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained in this Article of these Covenants, Conditions and Restrictions.

Section 6. Board of Directors to Act as Committee. Notwithstanding the foregoing, once a residential structure has been constructed on a Lot in accordance with plans and specifications approved by the Committee and a final certificate of occupancy for such residential structure has been issued by governmental authorities having jurisdiction, the Board of Directors shall thereafter act as the Committee in regard to additional improvements on such Lot, alterations and repairs of any improvements on such Lot, and any other matters relating to such Lot which would otherwise be subject to action by the Committee. In such case the Committee will not deal with such Lot but instead the Board of Directors shall handle all Committee responsibilities in regard to such Lot and shall exercise all Committee rights in regard to such Lot.

ARTICLE VIII

EASEMENTS

Section 1. Utility Easements. Easements for installation, maintenance, repair and removal of utilities (including, but not limited to, sewer, water, telephone, power, gas, street lighting and cable television) and drainage facilities and floodway easements over, under and across all the Property are reserved by Declarant for itself, its successors and assigns. Declarant shall have the right to grant easements for such purposes over, under and across the Property. Full rights of ingress and egress shall be had by Declarant and its successors and assigns, at all times over the Property owned at any time by such Declarant for the installation, operation maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement, or with the use, maintenance, operation or installation of such utility. Notwithstanding the foregoing, however, Declarant covenants that at any such time as the utilities referred to in this Section shall have been installed or otherwise located on the Deed Records of Tarrant County, Texas define the exact location of each such easement and will release the remainder of the Property from the provisions of this Section as they relate to the easement so defined. Any such instrument when executed and filed of record by Declarant shall be effective to limit the location of the easement provided for therein in accordance with its terms and conditions, notwithstanding that the utility company affected may not have executed such instrument.

Section 2. Ingress and Egress by the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon each Lot for the maintenance and repair of each Lot in accordance with the provisions hereof, and for the carrying out by the Associate of its functions, duties and obligations hereunder; provided, that any such entry by the Association upon any Lot shall be made with as minimum inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Association at the expense of the maintenance fund.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Duration. The Covenant, Conditions and Restrictions of this Declaration shall run with and bind the Properties subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date that this Declaration is recorded, after which time they shall be automatically extended for successive period of ten (10) years unless an instrument signed by the Members then entitled to cast a majority of the votes of the Association has been recorded, agreeing to abolish said Covenants, Conditions and Restrictions in whole or in part; provided, however, that no such agreements to change any portion hereof shall be effective unless made and recorded ninety (90) days in advance of the effective date of such change.

Section 2. Amendments. Except as provided in Section 1 of this Article, the Covenants, Conditions and Restrictions of this Declaration may be abolished, amended and/or changed in whole or in part, only with the consent of a majority of the Class A Members and a majority of the Class B Members, if abolished, amended and/or changed during the first ten (10) year period of this Declaration, and thereafter only with the consent of seventy-five percent (75%) of the Members, and in each case such amendment shall be evidenced by a document in writing bearing each of their signatures. All amendments, if any, shall be recorded in the office of the County Clerk of Tarrant County, Texas. Notwithstanding the foregoing, no amendments hereto may be made which would result in a conflict between the provisions hereof and applicable laws, codes, regulations or ordinances, including, without limitation, zoning and other ordinance, of the City of Fort Worth, Texas.

Section 3. Enforcement. Enforcement of these Covenants, Conditions and Restrictions shall be by a proceeding at law or in equity against any person or person violating or attempting to violate them, or to recover damages, or to enforce any lien created by these Covenants; and failure by the Declarant, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these Covenants, Conditions or Restrictions by judgment or court order shall in nowise affect any other provision, all of which shall remain in full force and effect.

Section 5. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 6. Notices. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 7. Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or the Bylaws shall be determined by the Board of Directors, which determination shall be final and binding upon all Owners.

IN WITENSS WHEREOF, Perry Homes, a Texas joint venture, being the Declarant herein, has caused this instrument to be executed by its officer hereunto duly authorized, as of the day and year first above written.

PERRY HOMES, a Joint Venture

BY: Perry-Houston Interests, Inc.  
Managing Joint Venturer

BY: \_\_\_\_\_  
Gerald W. Noteboom, Senior  
Vice President

THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on this the 24<sup>th</sup> day of March 1994, by GERALD W. NOTEBROOWM Senior Vice President of, and on behalf of, PERRY-HOUSTON INTERESTS, INC., a Texas corporation and the Managing Joint Venturer of, and on behalf of PERRY HOMES, a Joint Venture.

Seal Showing Name and  
Commission Expiration

\_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

After Recording, Please  
Return to:  
Mr. John R. Krugh  
Vice President  
P.O. Box 34306  
Houston, Texas 77234

THE STATE OF TEXAS  
COUNTY of \_\_\_\_\_

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this day personally appeared Gerald W. Noteboom, Senior Vice President of PERRY HOMES, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this day the 7th day of December, 1990.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires: