

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
WHITELEY COVE TOWNHOMES
A Planned Unit Development

THIS DECLARATION, made on the date hereinafter set forth by LAGUNA SHORES RESORT AND MARINA, LP, a Texas limited partnership, hereinafter referred to as "Declarant".

WITNESSETH

WHEREAS, Declarant is the owner of certain property in the County of Nueces, State of Texas, which is more particularly described as follows ("Properties"), to-wit:

A tract of land platted as Lot 1-AR, WESTERN SHORES, as recorded in Volume 50, Pages 124 and 125, and by the amended plat recorded in Volume 54, Pages 152 and 153, of the Map Records of Nueces County, Texas, said tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found on the east boundary of Whitely Drive, having a right-of-way width of 50 feet, said boundary bears North 29 deg. 00' 00" East and south 29 deg. 00' 00" West from this point as the basis of bearing for this description, for the northwest corner and the POINT OF BEGINNING of the tract herein described and for the southwest corner of Lot 2, Western Shores, as recorded in Volume 47, Page 155, of the Map Records of Nueces County, Texas;

THENCE with the common boundary of Lot 1-AR and Lot 2 South 61 deg. 02' 29" East 84.93 feet measured to a 5/8 inch iron rod for a corner;

THENCE South 28 deg. 54' 23" West 39.97 feet to a 5/8 inch iron rod for an inside corner of this tract;

THENCE South 61 deg. 01' 37" East 102.90 feet to a drill hole in a concrete bulkhead cap for the northeast corner of this tract;

THENCE with said bulkhead South 03 deg. 58' 41" East 214.81 feet to a drill hole in said bulkhead cap for the southeast corner of this tract;

THENCE South 85 deg. 55' 40" West 103.37 feet with the common boundary of Lot 1-AR and Lot 1-B, Western Shores, as recorded in Volume 47, Page 177, of the Map Records of Nueces County, Texas, to a 5/8 inch iron rod for a corner;

THENCE continuing with the common boundary of Lot 1-AR and Lot 1-B North 61 deg. 01' 32" West 218.20 feet to a 5/8 inch iron rod found on the east boundary of Whitely Drive for the southwest corner of this tract;

THENCE with the east boundary of Whitely Drive North 29 deg. 00' 00" East 276.61 feet, the POINT OF BEGINNING, containing in all 1.436 acres, more or less.

NOW THEREFORE, Declarant hereby declares that all of the Properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions ("Restrictions") which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to WHITELEY COVE TOWNHOMES ASSOCIATION, INC., a Nonprofit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Building Site which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions hereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be unencumbered and owned by the Association at the time of the conveyance of the first Building Site is described as follows:

A tract of land platted as Lot 1-AR, WESTERN SHORES, as recorded in Volume 50, Pages 124 and 125, and by the amended plat recorded in Volume 54, Pages 152 and 153, of the Map Records of Nueces County, Texas, said tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found on the east boundary of Whitely Drive, having a right-of-way width of 50 feet, said boundary bears North 29 deg. 00' 00" East and south 29 deg. 00' 00" West from this point as the basis of bearing for this description, for the northwest corner and the POINT OF BEGINNING of the tract herein described and for the southwest corner of Lot 2, Western Shores, as recorded in Volume 47, Page 155, of the Map Records of Nueces County, Texas;

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THENCE with said bulkhead South 03 deg. 58' 41" East 214.81 feet to a drill hole in said bulkhead cap for the southeast corner of this tract;

THENCE South 85 deg. 55' 40" West 103.37 feet with the common boundary of Lot 1-AR and Lot 1-B, Western Shores, as recorded in Volume 47, Page 177, of the Map Records of Nueces County, Texas, to a 5/8 inch iron rod for a corner;

THENCE continuing with the common boundary of Lot 1-AR and Lot 1-B North 61 deg. 01' 32" West 218.20 feet to a 5/8 inch iron rod found on the east boundary of Whitely Drive for the southwest corner of this tract;

THENCE with the east boundary of Whitely Drive North 29 deg. 00' 00" East 276.61 feet, the POINT OF BEGINNING, containing in all 1.436 acres, more or less; SAVE AND EXCEPT ALL BUILDING SITES LOCATED ON SAID LOT AND DESCRIBED AS FOLLOWS:

Building Sites A, B, C, D, E, F, G and H;

Building Sites I, J, K, L, M, N and O;

Building Sites P, Q, R, S and T; and

Building Sites U, V, W, X and Y.

The Common Area shall also include all boat slips, mooring areas, docks and any other structures constructed in the marina adjacent to and serving the above-described real property as provided by that Agreement dated March 14, 1985, recorded under Clerk's File No. 502501, Volume 2021,

Section 5. "Building Site" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Home" shall refer to the improvements constructed upon any Building Site, subject to this Declaration, for use as a single family dwelling, as that term is defined by local ordinance.

Section 7. "Unit Number" shall mean the following numbers which are hereby assigned to each individual Building Site for identification purposes:

Unit Number	Building Site
401	H
402	G
403	F
404	E
405	D
406	C
407	B
408	A
301	O
302	N
303	M
304	L
305	K
306	J
307	I
201	T
202	S
203	R
204	Q
205	P
101	Y
102	X
103	W
104	V
105	U

Section 8. "Declarant" shall mean and refer to LAGUNA SHORES RESORT AND MARINA, LP, a Texas limited partnership, its successors and assigns.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Building Site, subject to the following provisions:

- (A) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (B) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Building Site remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (C) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3rds) of each class of members has been recorded;
- (D) The right of the Association to control the parking areas within the Common Area; and
- (E) The right of the Association to control the boat slips, mooring areas and any other structures constructed in the marina as part of the Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Building Site which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Building Site which is subject to assessment.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Building Site owned. When more than one (1) person holds and interest in any Building Site all such persons shall be members. The vote for such Building Site shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Building Site.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Building Site owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) On January 1, 2008.

Cumulative voting for Directors shall not be allowed.

Section 3. Loss of Voting Rights. No member who is delinquent in the payment of any assessment, charge, fee or other sum due from such member, shall be entitled to vote unless and until all such delinquent sums have been paid in full.

ARTICLE IV

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Building Site owned within the Properties, hereby covenants, and each Owner of any

Building Site, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) regular assessments or charges; and (2) special assessment for capital improvements, such assessments to be established and collected as hereinafter provided. The covenant in this section shall not constitute a guarantee, or promise of any kind by Declarant to pay any assessment, or any other obligation of any other Owner, other than Declarant. The regular and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Building Site against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and certain limited maintenance required of the Association hereunder on Homes situated upon the Properties, and for fire and extended coverage insurance on Homes. The assessments shall be placed in an account ("Common Fund") for such purposes.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Building Site to an Owner, the maximum regular assessment including the premium, if any, charged for fire and extended coverage as herein provided, shall be \$50,000.00 per year (to be allocated among the Building Sites in accordance with Article IV, Section 6 below), except that such regular assessment may be increased as follows:

- (A) From and after January 1, 2008, the maximum regular assessment per Building Site may be increased above ten percent (10%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (B) The Board of Directors may fix the regular assessment at an amount not in excess of the

maximum.

There shall be no limit on increase in assessment for fire and extended coverage insurance, and such may be increased from time to time and any time that insurance premiums increase. The amount of fire and extended coverage shall be the same for each Home except where an Owner of a particular Home requires a higher amount, and in which event such Owner shall individually bear, as an extra assessment, the extra expense for the higher amount.

The Association is authorized to collect from time to time as a part of the common expenses from the Owners of Building Sites an amount of money equal to the deductible amounts, if any, in the insurance policy or policies insuring the multiple buildings on the Properties and the Association is authorized to enter into agreements with the mortgage companies who hold mortgages on individual Building Sites with respect to the depositing of this fund and the use of such fund in case of damage to the Homes.

Section 4. Special Assessments for Capital Improvements. In addition to the regular assessments authorized above, 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, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or portions of a Home or Homes for which the Association is obligated to repair or replace hereunder, including fixtures and personal property related thereto, provided that any such special assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the

required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Except as specifically provided in Section 7 of this Article, both regular and special assessments shall be allocated among the Building Sites in the following proportions (which more or less is related to the square footage of the Homes on the Building Sites):

Unit Number	Building Site	Allocation Percentage
401	H	3.44
402	G	3.44
403	F	3.44
404	E	3.44
405	D	3.44
406	C	3.44
407	B	3.44
408	A	3.44
301	O	5.1
302	N	5.1
303	M	5.1
304	L	5.1
305	K	5.1
306	J	5.1
307	I	5.1
201	T	3.44
202	S	4.233
203	R	4.234
204	Q	4.233
205	P	3.44
101	Y	3.44
102	X	3.44
103	W	3.44
104	V	3.44
105	U	3.44
TOTAL		100.00

Such assessments may be collected on a monthly basis, or such other periodic basis determined by the Board of Directors.

Section 7. Date of Commencement of Regular Assessments and Due Dates. The assessments provided for herein shall commence as to a particular Building Site on the first day of the month following the conveyance of that Building Site by the Declarant. The first regular assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of subsequent regular assessments against each Building Site at least thirty (30) days in advance of each regular assessment period, except that assessments may be increased at any time for increases in fire and extended coverage premiums. Written notice of the regular assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and, unless otherwise provided, the Association shall collect each month from the Owner of each Building Site, one-twelfth (1/12th) of the regular assessment for each Building Site. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer, or the managing agent, if any, of the Association setting forth whether the assessments on a specified Building Site have been paid. A properly executed certificate of the Association as to the status of assessments on a Building Site is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments and Remedies of the Association; Late Charge. If an assessment is not paid by the Owner in full within thirty (30) days after the due date it shall be deemed delinquent, and such Owner shall pay a late charge equal to five percent (5%) of the delinquent assessment, such late charge to cover the extra expense involved in handling delinquent accounts. Where a partial payment has been made on an assessment prior to its being delinquent, the 5% late charge shall nevertheless be based on the full amount (and not just the unpaid amount) of the assessment. A late charge shall be imposed only one time for any particular assessment. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Building Site, and costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of his Building Site, or by renunciation of membership in the

Association.

Each such Owner, by acceptance of a deed to a Building Site, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien.

One method of enforcement and foreclosure of such assessment liens, although not to the exclusion of other means of enforcement, shall be by the Association appointing, in writing, a Trustee, and upon requesting the Trustee to foreclose the lien, the Trustee shall do the following:

- (1) Advertise the time, place, and terms of sale and mail notices as required by Section 51.002 of the Texas Property Code, as then amended, and otherwise comply with that statute;
- (2) Sell all or part of the Building Site to the purchaser with a general warranty binding the defaulting Owner; and
- (3) From the proceeds of the sale, pay, in this order:
 - (a) Expenses of foreclosure, including a reasonable commission to Trustee;
 - (b) To the Association, the full amount of principal, interest attorney's fees, and other charges due and unpaid;
 - (c) Any amounts required by law to be paid before payment to the defaulting Owner; and
 - (d) To the defaulting Owner, any balance.

The Association, acting on behalf of the Owners shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting

Owner's portion of the premium for fire and other hazard insurance.

If any Building Site is sold under this lien, the defaulting Owner shall immediately surrender possession to the purchaser. If the defaulting Owner fails to do so, the defaulting Owner shall become a tenant at will of the purchaser, subject to an action for forcible detainer. Recitals in any trustee's deed conveying the Building Site will be deemed conclusively true. Notwithstanding anything contained herein to the contrary, an Owner may give to the Association, subject to acceptance thereof by the Association, a deed in lieu of foreclosure.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate and inferior to any mortgage, vendor's lien, deed of trust or other security instrument which secures any loan made by any lender to an Owner for any part of the purchase price of any Building Site and the improvements thereon, if improved, when the same is purchased, or for any part of the cost of constructing, repairing, adding to, or remodeling the residence and appurtenances situated on any Building Site to be utilized for residential purposes, and which mortgage, vendor's lien, deed of trust or other security instrument is filed for record prior to the date on which payment of any such charges or assessments become due and payable. Sale or transfer of any Building Site shall not affect the assessment lien. However, the sale or transfer of any Building Site pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Building Site from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public municipality or authority, and the Common Area shall be exempt from the assessments created herein. However, no land or improvements devoted to single family occupancy shall be exempt from said assessments.

Section 11. Reserves and Surplus. The Association's Board of Directors may establish, from time to time, reserves for such lawful purposes as in its sole discretion it may determine necessary to be desirable for the greater financial security of the Association and the effectuation of

its purpose. The Association shall not be obligated to spend in any fiscal year all of the sums collected in such year, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply any such surplus to the reduction of the amount of the annual assessment in the succeeding year, but may carry forward same from year to year.

Section 12. Transfer Fee. Upon each transfer or sale of a Building Site the Association may collect a non-returnable transfer fee to offset the expense of changing the Association's record, furnishing certificates and the like. The fee shall be as set by the Directors of the Association from time to time.

ARTICLE V

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Building Site which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, fences, and other exterior improvements. The Association shall also provide termite treatment and pest control for all Homes and Building Sites. The exterior maintenance shall not include glass surfaces, enclosed patio areas (if any), windows, doors, or their fixtures or hardware, landscaping installed by Owner (if any), exterior light fixtures operated from a Home, mechanical equipment and exterior hardware, and underground plumbing and other utilities within the Building Site servicing a particular Home. All repairs, maintenance and replacement for a Home or other improvements on a Building Site, except for those specifically listed herein to be provided by the Association, shall be provided by the Owner at the Owner's expense.

In the event that the need for exterior maintenance or repair of a Building Site or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner of the Building Site needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment of which such Building Site is subject.

In the event an Owner of any Building Site in the Properties shall fail to maintain the

premises and the improvements situated thereon (other than those repairs to be provided by the Association) in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3rds) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Building Site and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Building Site is subject.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Homes upon the Properties and placed on the dividing line between the Building Site, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, and Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution

from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one (1) arbitrator, and such arbitrators shall choose one (1) additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII

INSURANCE

Section 1. Physical Damage Insurance. The Declarant, for each Building Site owned, hereby irrevocably nominates, and each Owner of any Building Site by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to irrevocably nominate the Association, as Trustee, with authority to obtain and maintain fire insurance and extended coverage for all Homes, insuring the building and fixtures (permanently attached to the building) in an amount sufficient to cover the full replacement cost thereof. The policies shall not include "contents" insurance. Such insurance, to the extent available, may include (but not to the exclusion of other coverage deemed appropriate by the Association) coverage against water damage, flood insurance, vandalism and malicious mischief. Such policies of physical damage insurance shall be written in the name of the Association, as Trustee for each Building Site Owner, and shall contain Waivers of Subrogation against individual Building Site Owners, the Association, its Board of Directors, Officers, Employees and/or Agents, and Waivers of any reduction of pro rata liability of the insurer as a result of any insurance carried by any Building Site Owner, or, of the invalidity arising from any acts of the insureds, or any Building Site Owner, and shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days prior written notice of all of the insureds, including any mortgagee of any Building Site, unless an endorsement for such period is unavailable, in which case the standard policy time period shall apply.

Each policy shall contain a Texas Standard Mortgagee clause in favor of any first mortgagee of any Building Site, which shall provide that the loss, if any, shall be payable to such

first mortgagee as its interest may appear, subject however, to the loss payment provisions in favor of the Association as set forth herein. All such policies shall provide that adjustments of loss shall be made by the Association with the approval of the Building Site Owner, and that the net proceeds therefrom shall be payable to the Association, as Trustee.

The premiums for insurance obtained by the Association on each Building Site shall be part of the assessments as set forth elsewhere herein.

Building Site Owners shall not be prohibited from carrying additional insurance for their own benefit, provided that such policies contain Waivers of Subrogation against individual Building Site Owners, the Association, its Board of Directors, Officers, Employees and/or Agents, and further provided that the liability of the carrier issuing the insurance procured by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Building Site Owner. Any "contents" insurance must be carried by the Building Site Owner.

All insurance proceeds paid on any loss claim shall be first deposited in a bank or other financial institution, in an interest bearing account insured by a Federal Government Agency, with provision that such proceeds, or any part thereof, may only be withdrawn upon the signatures of at least two (2) members of the Board of Directors, or their designee. Furthermore, the Association shall thereupon procure a Fidelity Bond covering its Board of Directors, Officers, Employees and/or Agents in connection with such proceeds.

Notwithstanding the foregoing provisions of this section, it is further provided that the requirement for the maintenance of insurance on a Home shall not apply to any Home acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the period of ownership by either said Veteran's Administration or the Federal Housing Administration.

The initial policy of physical damage insurance on any particular Home shall be in such amount as may be required by any first mortgagee of such Home, but in no event in an amount less than the amount required to prevent the Home Owner or the Association to be a co-insured, and it

is intended that the insurance coverage be proportionate to the Rate of Assessment on all Homes as provided in Article IV, Section 6 of this Declaration. Any Building Site Owner may, upon written request, direct the Association to increase insurance coverage on his particular Home to such amount as the carrier selected by the Association is willing to underwrite. The amount of such insurance coverage shall be increased annually to cover the increase, if any, in the replacement cost of each Home.

Only the Association, as Trustee, the Building Site Owner, and his first mortgagee shall be beneficiaries under the policy, although not necessarily named in said policy. Assignment of the policy or of the proceeds of the policy, in the event of loss, shall be prohibited.

The Association may consult with and employ an attorney of its choice with respect to any question relating to its duties or responsibilities hereunder and shall not be liable for any action taken or omitted by it in good faith or on advice of counsel. The Association shall be reimbursed for all expenses incurred by it in connection with its duties under this Article, as a charge against the insurance proceeds, except for such expense incurred as a result of bad faith or willful misconduct.

Section 2. Public Liability Insurance. The Association shall obtain broad form public liability insurance protecting the Association, the Board of Directors, Officers, Employees and/or Agents of such Association, in a combined single limit amount of not less than ONE MILLION DOLLARS (\$1,000,000.00), or such other comparable insurance as the Association deems desirable. The Association shall also include coverage for individual Building Site Owners for occurrences on the Property, except for areas reserved for the exclusive use and occupancy of such individual Building Site Owner. Premiums for public liability insurance shall be part of the common expense payable out of annual assessments provided herein. Each Building Site Owner shall be responsible for his own personal liability for areas within the exclusive use and occupancy of such Owner.

The Association may secure such other forms of insurance coverage as its Board of Directors may from time to time direct, to be paid as a common expense.

Section 3. Limitations on Hazards. Under no circumstance shall an Owner permit or suffer anything to be done or left in his Home which will increase the insurance rate on his Home or any other Home, or of the Common Area (including the Exclusive Use Areas, if any), other than an endorsement for Tenant Occupancy or Vacancy.

Section 4. Repair or Reconstruction After Fire or Other Casualty.

- (A) In the event of any injury or damage to or destruction of any part of the improvements on the Properties ("Project") as a result of fire or other casualty covered by insurance, the Association shall, except as provided in sub-section (D) below, arrange for the repair and restoration of the improvements (including any damage to Homes, except walls, ceilings, or floor decorations or coverings, or other furniture, furnishings, fixtures, or equipment installed by Building Site Owners individually), in accordance with the original plans and specifications (except as modified to changed building requirements or conditions), and the Association shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration, in appropriate progress payments.
- (B) If such insurance indemnity or proceeds collected shall exceed the total cost of such reconstruction or repair, then, unless the contract of insurance or the Bylaws, as existing or as may be hereafter amended, shall specify otherwise, the Association or other agent or person named as Trustee in the policy of insurance and collecting such proceeds, shall pay over such excess to the Building Site Owner (unless otherwise specified by such Owner's loan documents), upon the tender to the Association by such Owner of a duly executed Release of Liability and/or accountability for the use of such insurance proceeds.
- (C) Where the insurance indemnity is insufficient to cover the cost of reconstruction, and reconstruction is required as provided for herein, the building or reconstruction costs in excess of the insurance proceeds shall be paid by the Association from the Common Fund, and in the event the Common Fund is inadequate to cover such cost, such inadequacy shall be paid for by all Building Site Owners by a special assessment in proportion to their respective interests, as set forth in this Declaration, or as may be provided for in the

Bylaws.

- (D) Should two-thirds (2/3) or more of the existing buildings be destroyed or substantially damaged, and should the Association not voluntarily, within one hundred twenty (120) days thereafter, make provision for reconstruction and restoration to the original condition, then any insurance settlement proceeds shall be collected by the Association. After payment of expenses to remove all debris and to restore the land to its pre-existing grade, the proceeds shall be divided according to each Building Site Owner's interest, and, upon such division, the Association shall hold the share of each Building Site Owner in a separate trust account. From each separate account, the Trustee shall use and disburse the total amount of each account toward the full payment of the following, for and on behalf of the Building Site Owner for whom each account is held:

- (1) The payment of any balance of any mortgage liens on such Owner's Building Site which are superior to the liens described below, in order of their priority;
- (2) The payment of taxes and special assessment liens on such Building Sites in favor of any taxing entity;
- (3) The payment of such Owner's share of unpaid common expenses and assessments of the Association;
- (4) The payment of junior liens on such Building Site, in the order and to the extent of their priority; and
- (5) The balance remaining, if any, to the Building Site Owners. The determination of whether two-thirds (2/3) or more of the Project shall have been destroyed or substantially damaged by any fire or other disaster or casualty shall be made by the Association.

- (E) With respect to the allocation of sums required to be paid within the limits of the deductible portion of insurance policies, the party or Building Site causing the damage shall be responsible for such deductible amount, whether or not caused by the negligence or fault of such Building Site Owner.

Section 5. Other Insurance. The Association shall have the authority to procure whatever

other forms or types of insurance, including Fidelity Bonds, as it deems desirable.

Section 6. Alternative Means of Administration. Notwithstanding anything contained herein to the contrary, the Association may temporarily withdraw from its role as Trustee for purposes of administration of insurance policies and/or proceeds, and may provide for each individual Building Site Owner to make his or her own provision for same, either with respect to a part or the whole of such policies and/or proceeds. In any event, the Association shall have the right and authority, at any time, to resume the administration, as Trustee, of such policies and/or proceeds.

Section 7. Individual Insurance. Each Owner shall be responsible at his own personal expense and cost for his own personal insurance on the contents of his Home, and decorations, furnishings and personal property therein and elsewhere on the Properties, and for his personal liability insurance for all the Owners as part of the common expense.

ARTICLE VIII

EASEMENTS

Section 1. Encroachments. Each Building Site and the Common Area (including Exclusive Use Areas, if any) shall be subject to an Easement for Encroachments created by construction, settling and overhangs of the Homes or other improvements as designed and/or constructed. A valid Easement shall and does exist for said encroachments and for the maintenance of same, so long as they stand.

Section 2. Utility Easements. There is hereby created a Blanket Easement upon, across, over and under all of said properties for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master or cable television antenna or satellite system. By virtue of this Easement, it shall be expressly permissible for the company providing electrical, water, sewer, gas, master or cable television antenna, and/or telephone service to install, erect and maintain all necessary pipes and conduit under ground and other necessary equipment at or below grade on said properties and to affix and maintain electrical, cable television and/or telephone wires, circuits and conduits on,

above, across and under the roofs and exterior walls of said Homes, and meters and shutoffs at or inside said Home.

Notwithstanding anything herein to the contrary, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said properties except as initially preplanned and approved by the Declarant or thereafter approved by the Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general Easement herein provided request a specific Easement by a separate recordable document, Declarant shall have the right to grant such Easement on said properties without conflicting with the terms hereof, so long as such specific Easement does not increase the burden upon the subject property. The Easement provided for in this Article shall in no way affect any other recorded easement on said premises.

ARTICLE IX

GENERAL COVENANTS

Section 1. Estate. Each Building Site shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 2. Construction Period. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of the Homes to maintain during the period of construction and sale of said Homes, upon such portion of the premises as Declarant deems necessary, such facilities as may be reasonably required, convenient or incidental to the construction and sale of said Homes, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office. Declarant reserves an easement of ingress and egress on, over and across the Properties for the purpose of constructing the individual Homes.

Section 3. Private Gardening. No planting or gardening shall be done in the Common Area unless approved in writing by the Board of Directors. The Association's Board of Directors or their designated Committee may adopt such rules and regulations to govern and enforce the provisions of this section. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all Owners of Building Sites.

Section 4. Modification. No modification of any kind to the exterior of the Home, either to the structure or the appearance thereof, including, but not limited to, the walls, roof, windows and doors, the color of exterior walls, roof, windows, doors and trim, awnings, mechanical devices, flags, storage structures or bunting shall be made without first obtaining the express written consent of the Association's Board of Directors, upon due written application made. The Board of Directors shall adopt such rules and regulations to enforce this section as it, from time to time, deem necessary.

Section 5. Unsightly Objects. Each Owner shall maintain, clean and keep free from unsightly objects, the entry, porch, patio or deck and yard of his Home.

Section 6. Sports Activities. There shall be no organized sports activities, in the Common Area, except as designated by the Association's Board of Directors.

Section 7. Marina. Boat slips, mooring areas, docks and related structures will not be assigned to any particular Building Site. These structures shall not be used for any purpose other than mooring personal watercraft. The boat slips, mooring areas, docks and related structures shall be kept free and clear for all debris, tools, awnings, furniture and other personal articles, and shall be maintained by the Association except for damages caused by an Owner.

Section 8. Garbage Disposal. Garbage shall be kept in sanitary containers at all times and such containers shall be kept in a clean and sanitary condition. No trash cans or garbage cans shall at any time or times be permitted on the street, or forward of the front building line so that they may be seen by anyone using the street along such lot. All garbage and trash storage and pick-up shall be behind the improvements.

Section 9. Clotheslines. No clotheslines may be placed in the Common Area.

Section 10. T.V. Aerials. No radio or television aerial or guy wires shall be placed on any townhome or Building Site or in the Common Area unless approved in writing by the Board of Directors.

Section 11. Construction in Conformity with Law. All construction on every Building Site and the Common Area and the uses of every Building Site and the Common Area shall conform

with all Ordinances of the City of Corpus Christi relating to building, safety, fire protection and zoning.

Section 12. Materials. All materials must be new materials or substantially the same or better than that which can be produced on the date construction on the improvements commenced and no secondhand or used materials shall be utilized in the construction of improvements or any lot within the subdivision.

Section 13. Animals. No horses, cattle, cows, hogs, swine, sheep, goats, poultry or livestock of any kind, other than pets of reasonable kind and number ordinarily kept in residential subdivisions, may be kept on any part of the Common Area or on any Building Site. No pets may be kept or bred for commercial or business purposes nor shall they be allowed to run at large within the Properties. Should ordinary household pets become a nuisance in the opinion of the Board of Directors, they must be removed from the Properties. Subject to the foregoing, all Owners of Building Sites shall be entitled to one ordinary household pet per Home.

Section 14. Parking Spaces. Parking spaces will not be assigned to any particular Building Site. The parking spaces shall not be enclosed and shall be used for no purpose other than parking automobiles, motorcycles and pickup trucks not to exceed one-ton. No structures or articles shall be permitted on the parking spaces, and they shall be kept free and clear for all debris, tools, awnings, furniture and other personal articles. Without limiting the preceding, no boats, trucks over one-ton, house trailers or recreational vehicles shall be parked in the parking spaces, except for overnight parking (one night only) in the parking spaces designated by the Board of Directors for this purpose. The parking spaces shall be maintained by the Association except for damages caused by an Owner.

Section 15. Other Rules. The Board of Directors may, from time to time, adopt additional rules and regulations governing the use of the Common Area and the conduct of all residents and guests on the Properties. No action shall be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner(s) in favor of the other Owners.

Section 16. Zoning and Specific Restrictions. These Restrictions shall not be taken as

permitting any action or thing prohibited by the applicable zoning laws, or the laws, rules or regulations of any governmental authority, or by specific restrictions of record. In the event of any conflict, the most restrictive provisions of such laws, rules, regulations, restrictions of record, or these Restrictions shall be taken to govern and control.

ARTICLE X

ANNEXATION

Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, unless otherwise provided herein.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by 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. Damages shall not be deemed adequate relief for any breach or violation of any provisions hereof. Any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as any other available relief either at law or in equity. Any party to a proceeding who succeeds in enforcing a Restriction or enjoining the violation of a Restriction against an Owner shall be awarded a reasonable attorney's fee against such Owner.

Section 2. Right to Abate. Violation or breach of any Restriction herein contained shall give Declarant, or the Association, their respective legal representatives, heirs, successors and assigns, in addition to all other remedies, the right to enter upon the land upon or as to which such violation or breach exist and summarily to abate and remove, at the expense of the Owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and the said parties shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal. Nothing herein contained shall be deemed to affect

or limit the rights of the Owners of the Building Site within the Properties to enforce these Restrictions by appropriate judicial proceeding.

Section 3. No Waiver. The failure of Declarant, the Association or the Owner of any Building Site included in the Properties, their respective legal representatives, heirs, successors and assigns, to enforce any Restriction herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto.

Section 4. Severability. The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

Section 5. Authorization of Board. The Association shall be entitled to contract with any corporation, firm, person or other entity for the performance of the various duties imposed on the Association hereunder and the performance by any such entity shall be deemed the performance of the Association hereunder.

The Association's Board of Directors where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration, and in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof. Any conflict between any construction or interpretation of the Association's Board of Directors or any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association's Board of Directors.

The Association's Board of Directors, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association's Board of Directors shall take into consideration the best interests of the Owner and of the Properties to the end that the Properties shall be preserved and maintained as

a high quality community.

In granting any permit, authorization, or approval, as herein provided, the Association's Board of Directors may impose any conditions or limitations thereon as it shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

The Association shall indemnify and hold harmless its Board of Directors, Officers, Employees and/or Agents from any and all liability in connection with such capacities, so long as the causes of liability were not in bad faith involving gross negligence.

Section 6. Observance Hereof. Each grantee accepting a deed, lease or other instrument conveying any interest in any Building Site, whether or not the same incorporates or refers to these Restrictions, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by these Restrictions and to incorporate the same by reference in any deed or other conveyance of all or any portion of his interest in any real property subject hereto.

Section 7. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the Properties, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Building Site Owners, representing ninety percent (90%) of the vote for the Association, and thereafter by an instrument signed by Building Site Owners, representing seventy-five percent (75%) of the votes in the Association. Any amendment must be recorded.

Section 8. Special Declarant Rights. The Declarant shall have and hereby reserves the right to add up to three additional Building Sites at its own cost and expense. Each additional Building Site shall be consistent with the original Building Sites in terms of quality of construction and architecture, and shall be located on that portion of the Properties not previously designated as a Building Site on the plat. In the event the Declarant exercises this right to add additional Building Sites, the proportionate shares of regular and special assessments described in Article IV, Section 6 of this Declaration shall be re-allocated among all Building Sites in approximate

proportion to the square footage of the Homes constructed on the Building Sites. Each purchaser, owner, and mortgagee of a Building Site does hereby appoint Declarant as its agent and attorney-in-fact with full power and authority to file on its behalf an amendment to this Declaration, an amended Plat, and any other documents that may be reasonably required in connection with the addition of Building Sites by the Declarant. The right to add Building Sites must be exercised by Declarant, if at all, on or before July 1, 2016.

In addition to the foregoing, the Declarant shall have and reserves the right at any time, and from time to time, without the joinder or consent of any other party, to amend this Declaration by an instrument in writing, duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity, or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan of development as evidenced by this Declaration and shall not impair or affect the vested Property or other rights of any Owner or his mortgagee.

Section 9. HUD/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Department of Housing and Urban Development ("HUD") or the Veteran's Administration (V/A): Annexations of additional Properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions (except for ministerial amendments specially provided herein).

ARTICLE XII

LIENHOLDER

The owner and holder of the only lien covering the Properties, has executed this Declaration to evidence its joinder in, consent to, and ratification of the imposition of the foregoing covenants, conditions and restrictions. No violation of any of these Restrictions shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Properties; provided however, that any mortgagee in actual possession, or any purchaser at any mortgagee's foreclosure sale, shall be bound by and subject to these Restrictions as fully as any other Owner of any portion of the Properties.

DATED the 3RD day of JULY, 2006.

DECLARANT:

LAGUNA SHORES RESORT AND MARINA, LP

By: SPRINGS REALTY LIMITED, INC.

Its General Partner

By: _____

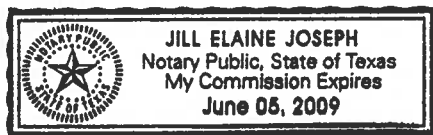
John Janz
President

STATE OF TEXAS

COUNTY OF NUECES

§
§
§

This instrument was acknowledged before me on the 3RD day of JULY, 2006, by John Janz, the President of SPRINGS REALTY LIMITED, INC., a Texas corporation, on behalf of said corporation, and with said corporation acting as the General Partner and on behalf of LAGUNA SHORES RESORT AND MARINA, LP, a Texas limited partnership.



Jill Elaine Joseph
Notary Public, State of Texas

LIENHOLDER:

TEXAS CHAMPION BANK

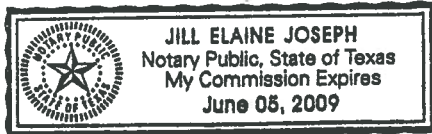
By: Steven R. Osterloh
Name: STEVEN R. OSTERLOH
Title: EXECUTIVE VICE PRESIDENT

THE STATE OF TEXAS

COUNTY OF NUECES

§
§
§

This instrument was acknowledged before me on the 3RD day of JULY, 2006, by STEVEN R. OSTERLOH, the EXECUTIVE VICE-PRESIDENT of TEXAS CHAMPION BANK, a Texas banking association, on behalf of said association.



Jill Elaine Joseph
Notary Public, State of Texas

Ed Velick

PO Box 18054

CC, TX 78480-8054

STATE OF TEXAS
COUNTY OF NUECES

I hereby certify that this instrument was FILED in File Number
Sequence on the date and at the time stamped herein by me, and
was duly RECORDED in the Official Public Records of
Nueces County, Texas



Diana T. Barrera
COUNTY CLERK
NUECES COUNTY, TEXAS

Doc# 2006039536
Pages 30
08/02/2006 3:36PM
Official Records of
NUECES COUNTY
DIANA T. BARRERA
COUNTY CLERK
Fees \$131.00

Any provision herein which restricts the Sale, Rental or use
of the described REAL PROPERTY because of Race, Color,
Religion, Sex, Handicap, Familial Status or National Origin, is
Invalid and unenforceable under FEDERAL LAW, 3/12/89