DECLARATION OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

WEST TRACE DEVELOPMENT, A MIXED USE DEVELOPMENT

WESTLAKE, LOUISIANA

THE CITY OF WESTLAKE
DECLARANT

DATED AS OF MARCH 30, 2009
Updated March 2016

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WITHOUT LIMITING ANYTHING CONTAINED HEREIN, ALL OWNERS AND OCCUPANTS OF LOTS ARE GIVEN NOTICE THAT USE OF THEIR LOTS AS DEFINED HEREIN IS LIMITED BY THE TERMS AND CONDITIONS OF THIS DECLARATION. EACH OWNER, BY ACCEPTANCE OF A DEED/ACT OF SALE OR OTHER TRANSFER ACKNOWLEDGES AND AGREES THAT THE USE AND ENJOYMENT AND MARKETABILITY OF HIS OR HER PROPERTY CAN BE AFFECTED BY THE PROVISIONS OF THIS DECLARATION AND THAT THE PROVISIONS OF THIS DECLARATION MAY CHANGE FROM TIME TO TIME.

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

WEST TRACE DEVELOPMENT, A MIXED USE DEVELOPMENT

BEFORE ME, the undersigned Notary Public, and in the presence of the undersigned witnesses personally came and appeared:

> The City of Westlake, a political subdivision of the State of Louisiana, acting herein pursuant to the provisions of La. R.S. 33:4712.9, represented herein by the duly authorized Mayor Robert "Bob" Hardey, whose mailing address is declared to be P.O. BOX 700, Westlake, Louisiana, 70669 (the **"Declarant"**),

who after being first duly sworn did hereby declare as follows:

GENERAL INTENT REGARDING DECLARATION

A. Declarant owns all of the immovable property located in Calcasieu Parish, Louisiana, more fully described in **Exhibit "A"** attached hereto (**"Property"**), which consists of approximately 600 acres more or less designated as WEST TRACE DEVELOPMENT.

B. Declarant intends to develop the Property as part of a mixed use development to be known as **"WEST TRACE DEVELOPMENT"**, consistent with the zoning classifications and land use approvals imposed by any governmental authorities having jurisdiction over the Property (**"Land Use Approvals"**). By this instrument, Declarant intends to subject the Property to certain covenants, conditions, restrictions and servitudes for the benefit of the Property, Declarant, and the purchasers and lessees of Lots in WEST TRACE DEVELOPMENT.

C. Declarant further intends to develop portions of the Property for a golf course, for office and retail uses, for other business uses, and for various residential uses (such as townhomes and single family residences), consistent with the Land Use Approvals and as described in Louisiana Revised Statute 33:4712.9 (the "**Enabling Statute**").

D. All and each of the covenants, conditions, restrictions and servitudes set forth in this Declaration are intended to enhance and protect the value, desirability and attractiveness of all Lots for their mutual benefit, and are hereby imposed as servitudes upon the Property, shall run with the land, shall be binding on and inure to the benefit of all Persons having or acquiring any right, title or interest in the Property or in any part thereof, and their successors, heirs, and assigns, and shall inure to the benefit of every portion of the Property and any interest therein.

E. Declarant has determined that the Property is no longer necessary for public purposes, and therefore intends to develop the Property and to transfer Lots to Owners, and perhaps transfer Common Areas to Associations, in order to promote the economic development within the City of Westlake, and to foster the creation of new jobs, industry, health care, warehousing, commerce, manufacturing, tourism, recreation and housing development within the City of Westlake. As such, the Property shall be considered private property owned by the Declarant in its private capacity as a private person, and not public property owned by the Declarant in its public capacity.

NOW, THEREFORE, incorporating the foregoing recitals regarding the general intent of the Declarant with respect to the Property and the Declaration, Declarant hereby creates and establishes servitudes, easements, reservations, covenants and restrictions which shall run with the land and be binding upon and inure to the benefit of the Owners of the Property and every part thereof and interest therein as part of a common plan to regulate and govern the use and occupancy of the Property and the Improvements, to enhance the value thereof and for other beneficial purposes.

ARTICLE I. DEFINITIONS

Capitalized terms used in this Declaration shall have the meanings given to them in this Article I, or as otherwise defined in other Articles of this Declaration.

1.1 **"Additional Property"** means any property which may be acquired in the future by Declarant and submitted by Supplemental Declaration to the covenants, terms, restrictions, conditions, reservations and servitudes contained in this Declaration.

1.2 **"Articles of Incorporation"** or **"Articles"** means Articles of Incorporation of an Association, as filed with the Secretary of State for the State of Louisiana, as amended from time to time.

1.3 **"Assessments"** means the cost of maintaining, improving, operating, managing, repairing and replacing the Common Areas, to be allocated to and paid by each Owner in accordance with its allocation pursuant to Article VIII, and includes Base Assessments, Special Assessments, Specific Assessments, and Service Area Assessments.

1.4 **"Association"** means the Residential Association or the Commercial Association as the context requires.

1.5 **"Board"** means the WREB, and following the creation of an Association, any board of directors responsible for administration of an Association, which has been assigned any of the rights and responsibilities with respect to the Property by the WREB.

1.6 **"Bylaws"** means the Bylaws of an Association as they may be amended from time to time.

1.7 **"Commercial Association"** means any Louisiana not-for-profit corporation or association created by Declarant for the purpose of operating and maintaining the Commercial Common Areas.

1.8 **"Commercial Lot"** means any Lot or parcel of the Property designated by WREB, whether improved or unimproved, which is intended for development, use and occupancy as a commercial or business venture or that is owned or leased to a commercial enterprise and used and occupied as a

commercial business, including all Improvements thereon, if any. Those portions of the Property designated for development as Commercial Lots are shown on the Plat.

1.9 **"Common Areas"** means the areas now or hereafter shown on the Plat, or now or hereafter designated or reserved or allocated for the use and benefit of all Owners and their tenants, customers, agents, employees and invitees by Declarant, or an Association, as applicable, as **"Common Areas"**.

1.10 **"Commercial Common Areas"** means those portions of the Common Areas reserved, allocated or designated for use by the Owners and Occupants of Commercial Lots.

1.11 **"Common Expense"** means those expenses incurred by a Board in the operation, management, repair, maintenance and replacement of the Common Areas.

1.12 **"Community-Wide Standard"** means the standard of conduct, maintenance, or other activity generally prevailing throughout the Property, which shall not be lower than the standards established by the WREB for all Property within WEST TRACE DEVELOPMENT. Such standard is expected to evolve over time as development progresses and may be more specifically determined by a Board or Declarant.

1.13 **"Declarant"** means the City of Westlake, acting through the WREB, and its successors and assigns, under and pursuant to the Enabling Statute. A Person shall be deemed a successor or assign of Declarant only if the Person is specifically designated as a successor or assigns of Declarant under this Declaration, in a written act of conveyance or assignment recorded in the Conveyance Records of the Clerk and Recorder of Calcasieu Parish, Louisiana (the **"Conveyance Records"**), and shall be deemed a successor or assign of Declarant only as to the particular rights or interests under this Declaration which are specifically assigned to such successor or assign in the written act of conveyance or assignment. Notwithstanding the foregoing to the contrary, a successor to Declarant by consolidation or merger shall automatically be deemed a successor or assign of Declarant under this Declaration.

1.14 **"Declaration"** means this Declaration of Covenants, Conditions and Restrictions for WEST TRACE DEVELOPMENT, as it may from time to time be amended or supplemented.

1.15 **"Design Guidelines"** means those certain design guidelines, rules and regulations created by the Declarant or its Design Professionals, as may be amended from time to time, that explain Declarant's vision for the design of the Property, and that regulate the design of specific site plans, buildings and other Improvements, and landscaping for the Property.

1.16 **"Design Professional"** means a Person licensed as an engineer, architect, landscape architect, or traffic engineer in the State of Louisiana.

1.17 **"Detached Residential Lot"** means any Residential Lot or parcel of the Property, whether improved or unimproved, which is intended for development, use and occupancy as a dwelling for a detached single family residence, including all Improvements thereon, if any. Those portions of the Property designated for development as Detached Residential Lots are shown on the Plat.

1.18 **"Design Review Board"** means the committee established by the WREB pursuant to Section 4.2 of this Declaration, to approve the design, plans and specifications for Improvements within WEST TRACE DEVELOPMENT.

1.19 **"Dwelling"** means any Improvement constructed on a Residential Lot for use as a residency for a single family unit.

1.20 **"Golf Course"** means the 18-hole golf course intended to be constructed on or adjacent to the Property as set forth on the Plat.

1.21 **"Golf Course Lots"** means a Detached Residential Lot or Townhouse Lot, whether improved or unimproved, which is located immediately adjacent to a portion of the Golf Course. Those portions of the Property designated as Golf Course Lots are shown on the Plat.

1.22 **"Improvements"** means every structure and all appurtenances thereto of every type and kind, including but not limited to, dwellings, buildings, outbuildings, patios, tennis courts, swimming pools, garages, driveways, sidewalks, walkways, fences, walls, gates, screening walls, terraces, retaining walls, stairs, decks, exterior air conditioning and heating units, pumps, wells, tanks and reservoirs, pipes, lines, cables, meters, towers, antennae, equipment and facilities used in connection with water, sewer, gas, electric, telephone, television or other utilities or services, and any other construction which in any way alters the exterior appearance of any Improvement; provided, however, that Improvements shall not include pipes, lines, cables, meters, equipment and facilities in connection with water, sewer, drainage, gas, electric, telephone, television or other utilities of a service provider in favor of whom a utility or drainage servitude has been expressly established and granted herein.

1.23 **"Lot(s)"** means those parcels of the Property which have been legally subdivided into separate lots and parcels of land, including the Residential Lots and the Commercial Lots.

1.24 **"Member"** means a member of an Association. Members shall be Owners. In the event there is no Association, references to Members shall mean Owners.

1.25 **"Mortgage"** means a recorded mortgage encumbering the full ownership, fee or leasehold interest in any Lot.

1.26 **"Occupant"** means any Person occupying all or any portion of the Improvements on a Lot, whether as owner, tenant, lessee, sub-lessee, licensee or otherwise, including, where the context dictates, licensees and invitees.

1.27 **"Owner"** means the record holder, whether one or more Persons, of full ownership, fee simple title to any Lot, including Declarant but excluding any Person holding such an interest merely as security for the performance of an obligation unless such security holder is in actual physical possession of the Lot. If ownership of the Lot is held separately from ownership of the Improvements thereon, the owner of the Lot shall be deemed the Owner. If a Lot is subject to a lease, the record owner of the Lot and not the tenant shall be deemed the Owner, regardless of the length of the term of the lease.

1.28 **"Person"** means any natural individual, corporation, partnership, association, limited liability company, limited partnership, trust, city, parish, state, or other entity of any kind.

1.29 **"Plat"** means the plat of the Property attached hereto as **Exhibit "B"**, as modified or amended or supplemented from time to time.

1.30 **"Proportionate Share"** means an Owner's percentage share, calculated on a square foot basis, based on the number of square feet of such Owner's Lot (land and Improvements), and the number of square feet (excluding Common Areas) of all Lots (land and Improvements) within the Property. Declarant shall allocate a Proportionate Share to each Lot, which Proportionate Share shall be adjusted

from time to time as development of the Property occurs, and which Proportionate Share shall be used to allocate various items of cost and expense which benefit all Owners, to the Owners of Lots. Declarant may allocate Common Expenses and an Owner's Proportionate Share based on solely Commercial Lots or Residential Lots (depending on the type of Lot at issue) or based on all Lots, in its discretion.

1.31 **"Property"** means that certain immovable property known as WEST TRACE DEVELOPMENT described in **Exhibit "A"** attached hereto, and any Additional Property added to the Property by Supplemental Declaration.

1.32 **"Residential Association"** means any Louisiana not-for-profit corporation or association created for the purpose of operating and maintaining the Residential Common Areas.

1.33 **"Residential Common Areas"** means those portions of the Common Areas reserved, allocated or designated for use by the Owners and Occupants of Residential Lots.

1.34 **"Residential Lots"** means Lots intended for development, use and occupancy as a Dwelling, including Detached Residential Lots, Golf Course Lots, and Townhouse Lots.

1.35 **"Rules and Regulations"** means the Rules and Regulations of the WREB or an Association, as promulgated by its Board, as the same may be amended or modified from time to time.

1.36 **"Service Facilities"** means loading docks, trash enclosures, outside storage areas and other similar service facilities to the Commercial Lots.

1.37 **"Sign"** means any and all kinds of signs, including but not limited to billboards, pole signs, monument signs, building signs, directional signs, and parking signs.

1.38 **"Street"** means any paved area designated for the use of any vehicles whatsoever, whether public or private in nature, and regardless of the length or location (excluding parking lot access aisles).

1.39 **"Substantially Completed"** means the substantial completion of any Improvement as determined by the WREB.

1.40 **"Supplemental Declaration"** means any instrument filed in the Conveyance Records by Declarant amending, modifying or supplementing the provisions of this Declaration, or adding Additional Property to this Declaration.

1.41 **"Townhouse Lot"** means any Residential Lot, whether improved or unimproved, which is intended for development, use and occupancy as a dwelling for an attached single family townhouse residence, including all Improvements thereon, if any.

1.42 **"WREB"** means the Westlake Real Estate Board created pursuant to the Enabling Statute. The Declarant shall act hereunder through the WREB, such that when the term Declarant is used, unless the context in which the term is used requires otherwise, it shall be understood to mean The City of Westlake, acting through the WREB.

ARTICLE II. CREATION OF THE WEST TRACE DEVELOPMENT COMMUNITY

The purpose of this Declaration is to provide a system of government which is compatible with the operation and purposes of a traditional mixed use development, including a flexible system of standards and procedures for the development, administration, maintenance and preservation of WEST TRACE DEVELOPMENT as a traditional mixed use development.

2.1 **Purpose and Intent.** By this Declaration, Declarant intends to create a general plan of development for the Property, and to provide for future expansion of WEST TRACE DEVELOPMENT to include any Additional Property as Declarant deems appropriate. This Declaration only governs those portions of WEST TRACE DEVELOPMENT included in the Property, and land and improvements outside of the Property may be governed by other covenants, conditions or restrictions. This Declaration does not and is not intended to create a condominium within the meaning of the Louisiana Condominium Act, La. R.S. 9:1121.101 et. seq., as amended.

2.2 **Imposition upon Property**. Declarant hereby imposes upon the Property the covenants, conditions, restrictions, servitudes and other charges set forth in this Declaration.

2.3 **Binding Effect**. The Property shall be held, owned, leased, occupied, conveyed and used subject to the provisions of this Declaration, including without limitation, all reservations, servitudes, restrictions, covenants, charges, liens, privileges and conditions contained herein, which are intended as and are declared to be reciprocal predial servitudes and real obligations established as a charge on the Property and each Lot therein, and incidental to ownership thereof, and shall run with the land, and are for the benefit of and shall be binding upon the Property and each Owner. The obligation to honor and abide by the provisions of this Declaration and to pay any Assessment shall also be a personal obligation of each Owner of a Lot in favor of the Owners of every other Lot and of the WREB.

2.4 **Term**. This Declaration shall become effective for a period of fifty (50) years commencing on the date this Declaration is filed for record in the Conveyance Records and shall thereafter shall be automatically extended for ten (10) successive periods of ten (10) years each, unless terminated by an instrument signed by Owners of at least seventy-five percent (75%) of the total number of Lots, and recorded in the Conveyance Records.

2.5 **Disclaimer of Representations.** Declarant makes no representations or warranties whatsoever that any property not now subjected to this Declaration will be subjected to the provisions hereof. Nothing contained in this Declaration and nothing which may be represented to a purchaser of a Lot by real estate brokers or salesmen representing the Declarant or any builder shall be deemed to create any representation or warranty, implied or express, with respect to the security of Person or property within the Property.

2.6 **Private Capacity**. To the extent allowed by law, Declarant is acting herein, and in the operation, development, management and administration of the Property, in a private capacity. The Property owned by the Declarant shall not be considered public property.

ARTICLE III. USE AND CONDUCT

This Declaration imposes standards for use, conduct, maintenance and architecture within the development which give the community its "home-like" qualities. This Declaration establishes methods for the promulgation of rules and regulations that allow the community and its standards to progress as the community, technology and surrounding markets change.

3.1 **Framework for Regulation**. Declarant has established a general plan of development for the Property to enhance the Owners' quality of life and collective interests, the aesthetics and environment within the Property, and the vitality of and sense of community within the Property, all subject to the ability of the Declarant to respond to changes in circumstances, conditions, needs, and desires within the community. This Declaration, each Supplemental Declaration, the Design Guidelines, each of the Rules and Regulations, and the other documents referenced in this Declaration (individually and collectively, the **"Governing Documents"**) create a general plan of development for the Property which may be supplemented by additional covenants, restrictions, and servitudes applicable to particular areas within the Property. Each Owner, by acceptance of an act of sale or other means of transfer, acknowledges and agrees that the use and enjoyment and marketability of its Lot can be affected by the provisions of this Declaration.

3.1.1 **Architectural Review and Approval.** All Owners and Occupants acknowledge that no Improvements of any type shall be made on any Lot unless and until the plans for such Improvements have been reviewed and approved in accordance with Article IV of this Declaration.

3.2 **General Use Restrictions**. The following activities are prohibited upon and within (a) any Lot, and (b) any Common Area, and all Improvements thereon (including furnishings and equipment related thereto):

3.2.1 **Animals.** Raising, breeding, or keeping of animals of any kind on any Lot or within any Improvement constructed on a Lot shall not be permitted, except no more than three (3) dogs, cats, or other usual and common household pets may be permitted on any Lot or within any Improvement constructed on a Lot (provided they are not raised, bred or kept for commercial purposes), subject to the Rules and Regulations. The Rules and Regulations may also designate specific areas within the Common Area where pets may be walked, prohibit pets in other areas, require pets to be on leash, and restrict the rights of tenants to keep pets. Any pet that the Declarant in its sole discretion determines to be a nuisance, after notice to such Owner or resident and affording such person an opportunity for a hearing before the Board, shall be removed from the Lot upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. The Board may also, in its sole discretion, prohibit the keeping of specific breeds of dogs, cats and other permitted animals within any part of the Property where the Board determines that the keeping of such animals is a safety risk. Each Owner shall be strictly responsible to immediately collect and properly dispose of wastes and litter of any permitted pets. ***Notwithstanding anything to the contrary contained in this Declaration, this subparagraph shall be applicable only to those Owners of Residential Lots. Pets shall not be permitted in or on Commercial Lots except those portions of Commercial Lots which are used as veterinarian offices, grooming shops, kennels, pet stores, or other pet supply stores which, in all cases, are permitted by the Declarant.***

3.2.2 **Antennas.** Exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind shall not be permitted on any Lot, except that:

(a) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one (1) meter or less in diameter;

(b) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one (1) meter or less in diameter or diagonal measurement; or

(c) an antenna that is designed to receive television broadcast signals,

(collectively, **"Permitted Antennas"**), shall be permitted only in rear yards or mounted on the rear of Improvements; provided, however, that notwithstanding the foregoing, and as a general principle, all Permitted Antennas and related equipment and wiring shall be located so as to minimize their visibility from any Street adjacent to the front or side of any Lot even if such location adversely affects such Permitted Antenna's ability to receive signals. If an Owner needs to install a Permitted Antenna and/or its related equipment and wiring in any side yard, or on the side of any Improvements, or in any front yard, or on the front of any Improvements, in order to avoid a diminution in signal reception from such Permitted Antenna or to avoid unreasonable costs to install, maintain or use such Permitted Antenna, then, unless otherwise prohibited by applicable law, such Owner shall apply to WREB for a variance, and WREB shall review the application and communicate its decision to Owner within seven (7) days of receipt of the application for review. If WREB approves such variance, WREB may impose requirements as to location within the front or side yard or on the front or side of any Improvements and the manner of installation and screening with landscaping or otherwise, in order to minimize the visibility of the Permitted Antennas and related equipment and wiring from adjacent streets and adjacent property, so long as such requirements are not inconsistent with applicable law. If any portion of this subparagraph is deemed invalid under applicable law, the balance of the provisions of this subparagraph shall be applied and construed so as to effectuate, to the maximum extent possible, the intent expressed above in this subparagraph regarding locating Permitted Antennas in the least visible location on any Lot.

3.2.3 **Artificial Vegetation**. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, or any Improvement(s) thereon, unless approved by the Declarant.

3.2.4 **Compliance with Law.** No use shall be made of, nor any actions taken on, any Lot which is any violation of any law, ordinance or regulation applicable to the geographical area within which the Lot is located.

3.2.5 **Construction Requirements; Landscaping Requirements.** No Improvements shall be constructed nor any landscaping or other work performed on any Lot, except in strict compliance with this Declaration, and except for matters as to which a written variance has been granted by the WREB. Where construction trailers are permitted in accordance with this Section, the trailer must be attractively landscaped. During construction, no draining of pools on adjacent property or into washes or open spaces is permitted. Landscaping shall be performed in compliance with the approved landscape plan.

3.2.6 **Decorations, Equipment, Structures and Personal Property.** Placement of decorations, sports or play equipment or other similar structures or personal property shall not be permitted in the front or side yards of any Lot; provided, however, a reasonable number of holiday and religious decorations may be displayed in the front or side yards of a Lot for up to thirty (30) days prior to the holiday or religious observance and up to fourteen (14) days thereafter without prior approval, subject to the right of Declarant to require removal of any such decorations which it deems to (a) be excessive in number, size or brightness, relative to other Lots in the area; (b) draw excessive attention or traffic; or (c) unreasonably interfere with the use and enjoyment of neighboring Lots.

3.2.7 **Diseases and Insects.** No Owner, tenant, lessee or resident shall permit any thing or condition to exist upon any Lot or other property within the Property which shall induce, breed or harbor infectious diseases or noxious insects.

3.2.8 **Division of Lots.** No Lot shall be divided or subdivided and no portion of any Lot other than the entire Lot shall be transferred or conveyed for any purpose whatsoever, except by Declarant, or with the prior, express, written approval of the WREB. This subparagraph shall not be construed to prohibit the granting of any servitude and/or right-of-way to any Governmental Authority, public utility, or Declarant.

3.2.9 **Exterior Lighting**. The number of exterior light fixtures shall be limited. All lighting should be architecturally integrated with attached structures. Mercury vapor lights are prohibited. Landscape lighting and path lighting shall be minimal and used primarily for safety reasons. Security lighting including motion activated flood lights shall at a minimum be located beneath overhangs, and shall be used for emergency purposes only. No colored light bulbs shall be permitted. No lighting shall be installed which is aimed at surrounding properties, or which will intrude on surrounding property. Exterior lights shall be mounted on building surfaces so as not to interfere with the neighbor's use of his lot. All exterior light sources shall be shielded from view by adjoining properties.

3.2.10 **Fences and Garden Walls.** All fences and walls shall be kept neat and attractive and in good repair. All ornamental iron or picket fences shall be painted or otherwise finished. All fences shall be maintained so as not to detract from the general appearance of the Property.

3.2.11 **Firearms.** Discharge of firearms on any Lot shall not be permitted.

3.2.12 **Flags.** Subject to the provisions herein, flags of any kind placed on a Lot so as to be visible from outside the Improvement on the Lot shall not be permitted, except that one country flag not exceeding 48" X 72" in size and one decorative flag not exceeding 36" X 60" in size may be hung from flagpoles not exceeding 72" in length or 2" in diameter, which are mounted within brackets on the exterior facade of the Improvements.

3.2.13 **Gambling and Gaming**. Conducting, participating in, or holding of any events, functions or programs that involve games of chance, raffles, gambling, wagering, betting, or similar activities where the participants pay money or give other valuable consideration for the opportunity to receive monetary or other valuable consideration shall not be permitted on any Lot or within any Improvement on any Lot; provided, however, that the foregoing is not intended to bar the occasional use of the interior of a Dwelling for the activities described in this subparagraph so long as such use is either: (1) in conjunction with fundraising activities for a non-profit or charitable organization, or (2) a private, social, non-commercial activity.

3.2.14 **Garbage; Trash Collection.** On scheduled trash collection days, all Owners or occupants of all Lots shall place their garbage on the Street curb for pickup by the applicable trash collector. Owners or occupants of all Lots shall not place garbage bags in public view except on trash collection days. Recyclable products or materials may be placed for collection in containers expressly designed or legally required for such collection. Owners shall use and store trash and garbage containers on days other than scheduled trash collection days in compliance with other provisions contained in this Declaration and any applicable Rules and Regulations. The Declarant, through the Rules and Regulations, may regulate placement and maintenance of garbage and trash containers, and other matters affecting the attractiveness or safety of Lots.

3.2.15 **Golf Carts, "Minibikes", "Go-Carts", and "All Terrain Vehicles"**. Operation of "minibikes", "go-carts", "All Terrain Vehicles" and other similar vehicles shall not be permitted within the Property. The Declarant may adopt Rules and Regulations governing the use of such vehicles within the Property in its sole discretion. See Exhibit "F" for rules and regulations governing golf carts.

3.2.16 **Half-way Houses**. No Improvement on any Lot shall at any time be used as a Half-Way House under supervision of a Supervising Agency. For the purposes of this subparagraph, the term "**Supervising Agency**" shall mean a Governmental Authority including without limitation thereto, the Sheriff of Calcasieu Parish, the applicable police department, if any, the Louisiana Department of Corrections, the United States Department of Justice and the United States Marshal's Service. For the purposes of this subparagraph, the term "**Half-Way House**" shall mean a place where persons who have been imprisoned or incarcerated for crimes (whether felonies or misdemeanors), or confined for drug or alcohol rehabilitation, are continued under some form of supervision for the primary purpose of aiding such persons in readjusting to society following their imprisonment, incarceration, hospitalization or other form of confinement.

3.2.17 **Incinerators**. No incinerator shall be kept or maintained on any Lot.

3.2.18 **Interference with Servitudes and Drainage**. No Improvements other than driveways, sidewalks, walkways, fences, walls, retaining walls, and gas and water meters shall be placed or permitted to remain upon any Lot in a location which would damage or interfere with any servitude for the installation or maintenance of utilities or passage or drain, or obstruct any drainage ditch or channel. Notwithstanding any inference herein to the contrary, driveways, sidewalks, walkways, fences, walls, retaining walls, and gas and water meters may only be constructed and/or installed on a Lot in accordance with the requirements of the Declarant and in compliance with the provisions of this Declaration.

3.2.19 **Insurance**. Nothing shall be done or kept on any Lot or the Common Area which will increase the rate of, or result in cancellation of, insurance for the Property or any Lot, or the contents thereof, without the prior written consent of the Declarant. This prohibition shall not prohibit the usual and customary activities associated with residential use of Residential Lots and commercial use of Commercial Lots.

3.2.20 **Lakes**. Lakes shall not be used for swimming, boating, canoeing, rafting, tubing or similar activities or for the operation of manned watercraft. Any Lot which shall abut upon any lake, stream, pond, wetland, or other waterway shall be subject to the following additional restrictions:

(a) No pier, dock or other structure or obstruction or any other wall, revetment, rip-rap or any other material shall be built, placed or maintained upon any waterfront Lot or into or upon any waterway on the Property or adjacent thereto except with the specific written approval of the Declarant. As to any such

structure, approval or permits from the United States Army Corp of Engineers or any other such private or governmental agency as may be now or hereafter required must be obtained by the Owner, if permitted by Declarant.

(b) Except with the prior written approval from the Declarant, no device or material may be constructed, placed or installed upon any Lot which shall in any way alter the course of natural boundaries of any waterway or which shall involve or result in the removal of water from any waterway.

(c) The Owner of each Lot abutting the water's edge shall release and discharge Declarant, the Association, and the Parish of Calcasieu, from any and all claims for debt or damages sustained by the Owner or occupant by reason or account of the operation and maintenance of such lakes, streams, ponds, wetlands, and waterways.

(d) All such Lots shall be subject to a perpetual servitude in favor and for the use and benefit of the Declarant for the maintenance of such lakes, streams, ponds, wetlands, and waterways.

3.2.21 **Leasing of Lots.**

(a) Residential Lots may be leased in their entirety, or a garage apartment that is separate from the primary Dwelling on a Residential Lot may be leased; however, no single rooms or other fraction or portion of a Residential Lot may be leased, nor shall any Residential Lot or portion thereof be used for operation of a boarding house, **"Bed and Breakfast"** establishment, or similar accommodation for transient tenants.

(b) All leases shall be for an initial term of no less than one (1) year, except with the prior written consent of the Declarant. Leases of garage apartments shall be for an initial term of no less than three (3) months, and such garage apartments or Lots shall not be leased to more than two (2) separate tenants in any twelve (12) month period. No garage apartment shall be leased or used for any purpose other than residential use, except that the occupant of the primary Dwelling on a Residential Lot, or any tenant who has leased a garage apartment and who resides therein, may use the garage apartment for other uses consistent with the Declaration.

(c) Notice of any lease, together with such additional information as may be required by the applicable Board, shall be given to such Board by the Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Declaration. There shall be no subleasing or assignment of any lease unless prior written approval is obtained from the applicable Board or its designated representative or officer. All tenants of Owners occupying any portion of the Property agree to be bound by the terms and conditions contained in this Declaration.

3.2.22 **Maintenance.** No Lot (whether or not any Improvements have been constructed on the Lot), and no Dwelling or other Improvements which are located upon a Lot, shall be permitted to fall into disrepair and each such Lot, and all such Dwellings and other Improvements, and all lawns and

other landscaped areas, shall be kept neat and maintained in good condition and repair consistent with any requirements set forth in the Rules and Regulations. Each Owner shall keep neat and maintain in good condition and repair that portion of any Street right-of-way servitude (i.e., that portion of the right-of-way between the edge of the Street curb and the Owner's boundary line(s)) that is immediately adjacent to (whether in front of or alongside) the Owner's Lot. The opinion of the Declarant as to the acceptability of such conditions shall be final.

3.2.23 **Mineral and Mining Activity; Soil Bores.** No Lot shall be used for the purpose of boring, mining, quarrying, exploring for, producing or removing oil or other hydrocarbons, minerals, gravel or earth except in the case of soil borings in connection with soil analysis for foundation design; provided, however, that offsite exploration for or production of oil, gas or other minerals lying beneath the surface of a Lot through directional or horizontal drilling methods or otherwise shall be allowed if such directional or horizontal drilling does not penetrate or otherwise disturb any portion of the earth within five hundred (500') feet of the surface of any Lot. Provided, further, that any and all soil bores and soil test drill holes, regardless of their purpose, shall be filled with a permanent sealing material to prevent the seeping or leaking of subsurface water, groundwater and/or other liquids and substances to evacuate to the surface through such hole or boring.

3.2.24 **Movable Structures and Outbuildings.** No structure of any type, Dwelling or otherwise, shall be moved on to any Lot except as may be expressly approved by the Declarant. No structure of a temporary character and no trailer, tent, shack, barn, pen, stable, coop, cage, storage building, storage unit (including without limitation, "PODS"), or shed shall be erected, used or maintained on any Lot at any time without the express, prior, written approval of the Declarant. The Declarant may permit, in its sole discretion, the use and maintenance of temporary construction trailers necessary during the performance of any work on a Lot; provided that no such structures, trailers or the like, which have been approved by the Declarant in accordance with this subparagraph, shall be utilized for residence purposes and all such structures, trailers or the like shall be removed from the Lot promptly following the completion of the work. During art festivals, craft fairs, block parties and other special events, Declarant may approve the use of tents, trailers and other temporary buildings on the applicable Common Area or elsewhere within WEST TRACE DEVELOPMENT.

3.2.25 **Noise.** No exterior speakers, horns, whistles, bells or other sound transmitting, generating or amplifying devices other than security devices used exclusively for security purposes shall be located, used or placed on any Lot in such manner that the sound emitted therefrom may be heard on any other Lot. No noise shall be permitted to exist or operate upon any Lot that may be a nuisance to any other Owner, tenant, lessee or resident.

3.2.26 **Noxious Activity; Nuisance; Unlawful Activity.** No noxious odors shall issue or emanate from any Lot. No noxious activity shall be carried on or upon any portion of the Property, nor shall anything be done therein or thereon which may be or become unsafe or hazardous or an annoyance or nuisance to the Property or other Owners, tenant, lessees or residents of WEST TRACE DEVELOPMENT. Any nuisance or immoral, improper, offensive, hazardous or unlawful use or any other activity or condition that interferes with the reasonable enjoyment of any part of the Property or that detracts from the overall appearance of the Property is strictly prohibited. All laws, building codes, orders, rules, regulations or requirements of any governmental agency having jurisdiction shall be complied with, by and at the sole expense of the Owner or Declarant, whichever shall have the obligation to maintain or repair the affected portion of WEST TRACE DEVELOPMENT. Construction activities shall not be deemed an noxious activity under this Declaration.

3.2.27 **Occupancy.** Occupancy of a Lot by more than two (2) persons per bedroom is prohibited. For purposes of this provision, "**occupancy**" shall be defined as staying overnight for more than thirty (30) days in any six (6) month period.

3.2.28 **Parking.**

(a) Parking of vehicles on any portion of a Lot other than in an area designated and approved by Declarant for parking or a garage is prohibited. Parking may be permitted on a driveway, but only if the vehicle is in good working condition, and the Garage is already being utilized for parking.

(b) Parking of vehicles on public or private Streets or thoroughfares is permitted on the Property. Parking of commercial vehicles or equipment, mobile homes, boats, trailers, or stored or inoperable vehicles in places other than enclosed garages is prohibited. Such restrictions shall not apply to construction vehicles or third party service vehicles while providing services to the Lot on or adjacent to which they are parked.

(c) Only vehicles bearing current license and registration tags, as required by state law, may be parked in WEST TRACE DEVELOPMENT.

(d) No vehicle shall be parked so as to create a temporary obstruction to visibility at a Street intersection.

3.2.29 **Pipes, Cables and Lines.** Except for hoses, sprinkler systems, and the like which are reasonably necessary in connection with normal lawn maintenance, no water pipe, sewer pipe, gas pipe, drainage pipe, telephone line, electrical line or cable, television cable or similar transmission line, or the like shall be installed, placed or maintained above the surface of any Lot except where approved by the Declarant as reasonably necessary for connection to an Improvement or for access for repair or maintenance. The Rules and Regulations may prescribe rules relative to hoses, sprinkler systems, and the like that are authorized for normal lawn maintenance.

3.2.30 **Rooftop HVAC Equipment**. No heating, ventilating, air conditioning or evaporative cooling units or appurtenant equipment may be mounted, installed or maintained on the roof of any Lot or other Improvement so as to be visible from a neighboring Lot.

3.2.31 **Sewerage Disposal Systems**. No individual sewage disposal systems shall be permitted. All Improvements constructed in WEST TRACE DEVELOPMENT shall be connected to the Westlake sanitary sewage facilities.

3.2.32 **Signs.** The following restrictions on signs shall apply to all Lots within the Property unless otherwise stated or unless otherwise approved by the Declarant. All signs must meet the guidelines set forth in this Declaration.

(a) Each Lot may have posted, prior to initial occupancy of the Lot, a sign setting forth the name of the architect and builder of the Lot and, in the case of a Lot owned by Declarant or a builder approved by Declarant, a sign indicating that the Lot is available for sale; provided, any such signs shall be removed at the time of initial occupancy. Notwithstanding any language to the contrary herein, Declarant shall be permitted to post and display advertising signs, including "for

sale" signs, within WEST TRACE DEVELOPMENT so long as Declarant owns any portion of the Property.

(b) An "open house" sign indicating that the Owner of the Lot is hosting such an event may be posted on the Lot for a period not to exceed three (3) continuous days.

(c) To the extent permitted by applicable law, signs containing political or similar endorsements are prohibited on the Property.

(d) One sign not exceeding 9" X 12" in size may be mounted in a window or on a stake nor more than 36" above the ground, without prior approval, to identify the Lot as being equipped with a security system and/or monitored by a security service.

(e) Declarant may post "model home" or similar signs on a Lot containing model homes open to the public prior to initial occupancy of the Lot for a reasonable amount of time to be determined by the Design Review Board.

(f) No other signs, except those required by law, including posters, circulars, and billboards, may be posted on any Lot so as to be visible from outside the Lot.

3.2.33 **Solar Collecting Panels or Devices**. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans by the Declarant, solar collecting panels and devices may be placed, constructed or maintained upon any Lot within the Property so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Design Review Board may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any Street or from any other property (whether within or outside the Property). Notwithstanding any other provision of this Declaration to the contrary, the Declarant shall have the right, without the consent or approval of any Owner or other Person, to amend this Section (which amendment may, without limitation, impose additional or different restrictions on solar collecting panels and devices) as the Declarant deems appropriate after the effective date of this Declaration.

3.2.34 **Soliciting**. No soliciting will be allowed at any time within WEST TRACE DEVELOPMENT.

3.2.35 **Subdivision of Properties.** The subdivision of a Lot into two (2) or more Lots, or changing the boundary lines of any Lot, after a subdivision plat has been approved and filed in the public records of Calcasieu Parish, Louisiana is prohibited, except that Declarant, and any Person or entity expressly authorized in writing by Declarant, shall be permitted to subdivide or replat Lots which it owns, subject to this Declaration.

3.2.36 **Swimming Pools; Tennis Courts**. No tennis courts are permitted on any Lot. Swimming pools are permitted on a Lot if such pools are screened from view from Streets. Pool decks should be no closer five (5) feet from the side lot lines and ten (10') feet from the rear lot line.

Landscaping between the deck and the Lot boundaries must be installed. All pool equipment must be screened from view from the Streets and/or surrounding properties. Screening should also be designed to mitigate noise. Slides, diving boards or other pool accessories in public view shall be prohibited. Pools shall not be drained onto adjacent property or open space.

3.2.37 **Tanks.** No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot unless such tanks are buried underground. Nothing herein shall be deemed to prohibit use or storage upon any Lot of an aboveground propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace or a spa or "hot tub," so long as any such tank: (a) has a capacity of ten (10) gallons or less; and (b) is appropriately stored, used and/or screened, as approved by the Declarant, so as not to be visible from a neighboring Lot or other property.

3.2.38 **Timesharing.** Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use, possession or occupancy of a Lot rotates among participants in the program on a fixed or floating time schedule over a period of years shall not be permitted, except that Declarant and its assigns may operate such a program with respect to Lots which it owns. Leasing of a building or ownership of a Lot by a corporation, partnership or other entity for use by not more than four (4) individuals or married couples, will not normally be considered timesharing.

3.2.39 **Tools, Supplies, and other Materials.** Cleaning of tools, supplies and equipment by concrete suppliers, painters or other subcontractors in other than designated areas is prohibited.

3.2.40 **Trash.** Burning of trash and accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind is prohibited in WEST TRACE DEVELOPMENT; provided, however, that storage of building materials, equipment and scrap materials and waste generated in connection with work shall be permitted on a Lot during periods of work on the Lot if stored neatly. Nothing in this subparagraph shall be construed as prohibiting Declarant or a builder from storing of building materials, equipment and other materials used in connection with the development of the Property in the course of its business, if stored neatly.

3.2.41 **Tree Removal.** See Exhibit "E."

3.2.42 **Vehicles and Other Equipment.** None of the following may be kept or stored within WEST TRACE DEVELOPMENT, except as stored and kept in an enclosed garage: (a) junk or abandoned vehicles, (b) commercial vehicles other than company automobiles provided for personal use or commercial vehicles used in connection with Commercial Lots, (c) trailers, (d) tractor-trailers, (e) campers, (f) motor homes and recreational vehicles, (g) camp trucks, (h) house trailers, (i) boats, (j) boat trailers, or (k) other machinery or equipment of any kind or character (except for such equipment as may be reasonable, customary and usual in connection with the use and maintenance of any Dwelling or other Improvements located upon the Property and except for such equipment and/or machinery as the Declarant may require in connection with the maintenance and operation of Declarant's property). No repair, maintenance or restoration of automobiles or other authorized vehicles (except for bona-fide emergencies) may be carried out on any Lot or at any location within WEST TRACE DEVELOPMENT unless and except to the extent such repair, maintenance or restoration can be accomplished inside an enclosed garage with all doors to the such garage closed. Changing oil in any vehicle or other equipment on the Property is prohibited. All permanent vehicles are to be parked within a garage. Lawn equipment and Recreational vehicles, such as boats, motor homes, and campers may only be stored on site a maximum of forty-eight (48) hours unless fully garaged. Otherwise, they shall be stored in an area off-

site. The use of unlicensed non street legal recreational vehicles, including four wheelers, go carts, motorized scooters, off road vehicles, or any other type of non licensed recreational vehicle, on city streets, sidewalks, cart paths, trails, privately owned lots, or on surrounding City of Westlake property is strictly prohibited. Boats, rafts, or other recreational equipment is not allowed on any waterways or body of water within West Trace Development. The use of a golf cart within West Trace must be operated by a person who has a driver's license and the vehicle must be licensed by the City of Westlake as road worthy. No golf cart is allowed on West Trace property without an executed golf cart agreement with the National Golf Course.

The Declarant shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of this Declaration towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by Declarant in connection with the towing of any vehicle or equipment shall be paid to the Declarant upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Declarant shall be secured by the Assessment Lien, and Declarant may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments.

3.2.43 **Vending Machines.** No vending machines shall be kept, stored, operated or otherwise located anywhere within WEST TRACE DEVELOPMENT. For the purpose of this provision "vending machines" shall include any machines of any nature that are used for the sale of food items, soft drinks, or articles of any nature by the insertion of coins or paper money into such machines, or by the use of any kind of credit or debit card. The Declarant may adopt Rules and Regulations granting an exception to this provision, or may grant exceptions on a case by case basis.

3.2.44 **Window Air Conditioning Units.** No window or wall air conditioning units shall be permitted anywhere within WEST TRACE DEVELOPMENT.

3.2.46 **Window Coverings.** Unless Declarant otherwise agrees, the only acceptable window coverings that may be affixed to the interior of any window visible from any Street or other portion of the Property are drapes, blinds, shades, shutters or curtains. The side of such window coverings that is visible from the exterior of any Improvements must be white or off-white in color, except that any window coverings consisting of wooden blinds or shutters may be a natural wood color. Notwithstanding the foregoing, Declarant may, from time to time, approve additional colors as acceptable for the portions of the window coverings visible from Streets, Common Areas or other Lots. In no event shall an Owner or builder affix a window screen to the exterior of any window which faces a Street frontage.

No window tinting other than reasonable tinting applied by the manufacturer or reflective coating may be affixed to any window that is visible from any Street or other portion of the Property, without the prior approval of Declarant. No mirrored coatings will be permitted.

3.2.47 **Yard Ornaments**. Artificial flamingos, deer, spinners, gazing balls, pirogues and such other tableau are prohibited in front yards. Typical seasonal decorations are permitted within season, subject to Section 3.2.6.

3.2.48 **Designated Wetlands Preservation Areas**. Any portions of the Property designated as Wetlands Preservation Areas must be maintained and developed in accordance with all applicable laws, statutes, ordinances, rules and regulations governing such areas.

3.3 **Additional Use Restrictions on Residential Lots:** Residential Lots shall be subject to the restrictions contained in the above Section 3.2 as well as the following restrictions. In the event of a conflict between the restrictions contained in this Section 3.3 and those contained in Section 3.2, the restrictions contained in this Section 3.3 shall prevail:

3.3.1 **Single Family Use**. Except as specifically provided in this Section 3.3, Residential Lots shall be used for single family residential purposes only. No Residential Lot or any part thereof shall be used for a school, church, hospital or other medical facility, assembly hall, group home of any kind, including without limitation, any community home as defined in La. R. S. 28:477, or any other use otherwise permitted under zoning ordinances of the City of Westlake applicable to single-family dwellings.

3.3.2 **Business.** No business, trade, or similar activity shall be conducted from any Residential Lot or any Improvement on any Residential Lot, except as provided in this subparagraph. An Owner or occupant residing in a Residential Lot may conduct **"discrete business activities"** within the Residential Lot so long as the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Residential Lot; the business activity does not involve regular visitation of the Lot or door-to-door solicitation of residents of the Property; and the business activity is consistent with the residential character of the Property and does not violate any other rules or regulations contained in this Declaration. Examples of **"discrete business activities"** include, but are not limited to, computer-based telecommunications and literary, artistic, or craft activities. The Declarant may restrict any business activities that it determines interfere with the enjoyment or residential purpose of the Property in its sole and absolute discretion.

The leasing of a Lot in accordance with this Declaration shall not be considered a business or trade within the meaning of this subparagraph. This subparagraph shall not apply to any activity conducted by Declarant or a builder approved by Declarant with respect to its development and sale of the Property or its use of any Lots which Declarant owns within the Property, including the operation of a timeshare, or similar program.

Notwithstanding anything to the contrary in this Declaration, Declarant and any builder approved by Declarant may utilize a Lot as a show house or model home. Furthermore, Declarant and any approved builder may utilize a Lot as a sales office for homes being constructed within the Property.

3.3.3 **Basketball Goals; Play Structures**. Swing sets and other play structures are permitted in the rear yard of a Lot only, and Declarant's prior approval is required if the same would be visible from any Street or from any neighboring Lot. Basketball goals or backboards are permitted if not mounted directly to the residence, but located on the inside of the driveway in an area close to the residence. Backboards shall be clear glass or colored to match the color of the residence. Driveways shall not be expanded to accommodate sports or play equipment.

3.3.4 **Garage Doors; Openings.** Except as may be expressly allowed by the Declarant, the doors through which vehicles enter a garage may not face a Street. Garage doors shall be kept closed, except when vehicles are entering or leaving the garage. Garage door openings shall be no higher than ten (10') feet.

3.3.5 **Garage.** Conversion of any garage to a use which precludes the parking therein of the number of vehicles for which it was originally designed shall not be permitted. At the time of any construction of a Building on a Lot, the Owner shall also construct a garage which, as set forth in the definition, is totally enclosed when all doors (both for vehicles and pedestrians) are closed. All

openings, other than windows, must have doors that close easily. No garage may have an opening (other than a window) which is taller than ten (10) feet above the finished grade of the floor of such garage.

3.3.6 **Garages; RVs.** No garage built specifically for a recreational vehicle, camper, motorhome or similar vehicle shall be permitted in WEST TRACE DEVELOPMENT. An Owner may keep a recreational vehicle, camper, motorhome or similar vehicle on his Lot only if such vehicle remains in a garage permitted hereunder with a door opening of no more than ten (10') feet high.

3.3.7 **Garage sales, rummage sales, or similar sales.** Garage, rummage or similar sales shall not be permitted on any Lot; provided, however, that Declarant may allow no more than two (2) community garage sales per calendar year in a portion of the Common Area determined by Declarant. The time, place, and method of notice to Owners of a community garage sale shall be at Declarant's sole discretion.

3.3.8 **Single Family Residences**. Each Residential Lot may be improved with no more than one (1) single family Dwelling and such accessory structures and Improvements consistent with a residential neighborhood as may be permitted pursuant to this Declaration.

3.4 **Additional Restrictions for Golf Course Lots:** Golf Course Lots shall be subject to the restrictions contained in the above Section 3.2 and Section 3.3. Additionally, Golf Course Lots shall be subject to the following restrictions. In the event of a conflict between the restrictions contained in this Section 3.4 and those contained in Section 3.2 or Section 3.3, the restrictions contained in this Section 3.4 shall prevail:

3.4.1 No visual or audio features on or activity from any Dwelling situated on Golf Course Lots shall be a distraction to the golfers. The Declarant shall make the determination as to whether such distraction has occurred in its sole discretion.

3.4.2 Direct access from Golf Course Lots to the Golf Course is prohibited.

3.4.3 Declarant may promulgate additional regulations and guidelines with respect to construction features on Golf Course Lots which may appear unsightly or unattractive from a golfer's point of view, such as storage sheds and storage areas and/or impose additional set back and related requirements on particular Golf Course Lots.

3.4.4 By accepting title to a Golf Course Lot (whether or not it is expressly stated in the instrument of conveyance), a Golf Course Lot Owner acknowledges and agrees, for itself and its guests, that:

(a) The Golf Course Lot is adjacent to or near the Golf Course;

(b) The Golf Course club house, parking lots and other related facilities may have exterior lighting and amplified exterior sound, and may be regularly used for entertainment and social events on various days of the week, including weekends, and during various times of the day, including early morning and late evening hours;

(c) Golf Course related activities, including without limitation, regular course play may be allowed during all daylight hours up to seven days a week, and golf tournaments open to the public at large may be conducted at any time during the year;

(d) The Golf Course is open to the public and large numbers of people may be entering, exiting and using the Golf Course on various days of the week, including weekends, and during various times of the day, including early morning and evening hours;

(e) Water hazards, the club house, maintenance facilities and other installations located on the proposed Golf Course may be attractive nuisances to children;

(f) The location of the Golf Course Lot in proximity to the Golf Course may result in nuisances or hazards to persons and property as a result of the Golf Course, Golf Course operations or any other Golf Course-related activities and that play on the Golf Course may result in damage or injury to persons or property as a result of golf balls leaving the Golf Course, including, without limitation, damage to windows and exterior areas of Improvements, damage to automobiles and other personal property of Owners or others, whether outdoors or within the Improvements, and injury to persons;

(g) The Owners and their guests knowingly and voluntarily assume all risk associated with such location, including but not limited to, the risks of nuisance, inconvenience and disturbance, as well as property damage or personal injury arising from stray golf balls or actions or omissions incidental to the use of a Golf Course, Golf Course operations and the Golf Course-related activities;

(h) None of Declarant, an Association, a Board, the Golf Course owner and operator of all or part of the Golf Course, and their respective officers, directors, members, employees, agents, invitees, licensees, contractors, successors and assigns shall be responsible for or accountable for, and each shall have no liability for any claims, causes of action, losses, damages, costs or expenses for any nuisance, inconvenience, disturbance or property damage or personal injury arising from stray golf balls or actions or omissions incidental to the use of the Golf Course, Golf Course operations or the Golf Course-related activities;

(i) The operation or maintenance of the Golf Course may require that maintenance personnel and other workers will commence work relating to the operation and maintenance and use of the same as early as 5:00 A.M., on a daily basis, and that the operation, maintenance and use of the Golf Course and recreational facilities will entail the operation and use of the following:

(i) Noisy power equipment such as tractors, lawn mowers, or similar machinery on various days of the week, including weekends, during various times of the day, including early morning and late evening hours;

(ii) Sprinkler and other irrigation systems during day and night;

(iii) Electric, gasoline or other power driven vehicles and equipment used by maintenance and operations personnel;

(iv) Application of pesticide and fertilizing chemicals; and

(v) Refuse removal trucks, delivery trucks and other vehicles entering and exiting on various days of the week, including weekends, during various times of the day, including early morning and late evening hours.

(j) The area between the rear lot line and the routinely maintained portion of the fairway is the responsibility of the Golf Course for cultivation of turf or mulch or landscaping or any combination thereof. The Golf Course lot owner shall be prohibited from making any alteration to this area without the written approval of the Declarant.

Each Owner and its guests do knowingly and voluntarily assume the risks associated with such operation and maintenance, including but not limited to, risks of nuisance, noise, disturbance, inconvenience, property damage and personal injury or sickness; The area between the rear lot line and the routinely maintained portion of the fairway is the responsibility of the golf course for the cultivation of Turf, mulch or landscaping or any combination thereof. The golf course lot owner shall be prohibited from making any alterations to this area without the written approval of the Westlake Real Estate Board.

3.5 **Additional Restrictions on Commercial Lots**: Commercial Lots shall be subject to the restrictions contained in the above Section 3.2, as well as the additional restrictions contained in this Section 3.5. In the event of a conflict between the restrictions contained in this Section 3.5 and those contained in Section 3.2, the restrictions contained in this Section 3.5 shall prevail:

3.5.1 **Commercial Use.** Commercial Lots shall be used only for normal retail, commercial and related and/or appurtenant service uses customarily conducted in mixed use projects, including retail sales, retail warehouse, retail and/or wholesale distribution, theaters, museums, tourist purposes, lodging, offices, entertainment, restaurants or other commercial purposes approved by the WREB or compatible with the foregoing and in accordance with all applicable zoning laws, rules and regulations.

3.5.2 **Signs.** Owners of Commercial Lots shall be permitted to have signage for the operation of their commercial business thereon provided that such signage has been approved by the applicable governmental authorities and the WREB.

3.5.3 **Prohibited Uses and Activities**. The following uses and activities are prohibited on Commercial Lots:

(a) **Nuisance.** Any use which is offensive by reason of odor, fumes, dust, smoke, noise, or pollution, or which constitutes a nuisance or is hazardous by reason of fire or explosion, or injurious to the reputation of any Lot is prohibited. Oil, gasoline or flammable liquid shall not be stored in bulk in greater than fifty-five gallon containers except in underground storage tanks (permitted, operated and maintained in accordance with all applicable laws, rules and regulations). This restriction is not intended to prohibit a gas station or car wash facility. Tenants, Owners and Occupants shall keep the rear of the Improvements in good and clean condition, shall pick up trash and other debris on a daily basis, and

shall screen all dumpsters and other trash containers, and other machinery and equipment from public view.

(b) **Warehouse Operations.** A facility primarily used as a storage warehouse operation, mini-warehouse or freight terminal (for purposes hereof, a "storage warehouse operation" or freight terminal shall not be construed to include retail merchandise stored on the premises with the main use).

(c) **Manufacturing Facility.** A facility for assembling, manufacturing, refining, smelting, drilling, mining, exploring or the producing of oil, gases or other minerals (provided this restriction shall not preclude the assembly of merchandise to be sold at a facility).

(d) **Animals.** Any use which involves the raising, breeding or keeping of any animals or poultry except on a temporary basis, in which case such areas are to be cleaned and maintained by the owner of such Commercial Lot so that it is not a nuisance to any other Lot (provided this restriction shall not preclude an aquarium or a pet store).

(e) **Salvage Yard**. Salvage or reclamation yards and the storage of inoperative vehicles.

(f) **Pawn Shop**. Any pawn shop or "second hand" store.

(g) **Mobile Home Park**. Any mobile home park, camp ground, trailer court or labor camp; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance or for trailers, delivery trucks or recreational vehicles of agents or contractors of Owner or Occupant.

(h) **Dumping.** Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition shall not be applicable to garbage compactors located near or behind the Improvements and used in the ordinary course of business.

(i) **Laundromat.** Any central laundry or laundromat; provided, however, this prohibition shall not be applicable to a drop-off and pickup facility.

(j) **Automobile Sales.** Any automobile, truck, trailer or recreational vehicle sales operation with outside sales, leasing or display unless approved by the WREB or in conjunction with promotions, displays and other similar marketing activities, subject, however, to compliance with all applicable laws, rules and regulations.

(k) **Body Shop.** Any body shop repair operation, engine repair or vehicle repair facility for all vehicles, including motorcycles.

(l) **Funeral Home.** Any mortuary, funeral home or cemetery.

(m) **Immoral Activities**. Any bookstore, theater, video store, establishment selling or exhibiting pornographic materials or which sells drug-related

paraphernalia or which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff and/or any massage parlors, escort services or similar establishments which offers materials or services of a so-called "adult" or "x-rated" nature; except that this provision shall not be deemed to preclude the operation of either a nationally or regionally recognized book store, or a drug store or pharmacy, or a department within a retail store offering for sale its usual or customary inventory of books, magazines and/or related pharmaceutical materials.

(n) **Flea Market**. A flea market.

(o) **Hazardous Materials.** No Owner or Occupant shall knowingly use, or permit the use of, Hazardous Materials (as hereinafter defined) on, about, under or in its Commercial Lot or the balance of the Property, except in the ordinary course of its usual business operations conducted thereon, and any such use shall at all times be in compliance with all Environmental Laws (as hereinafter defined). Each Owner or Occupant agrees to defend, protect, indemnify and hold harmless each other Owner or Occupant from and against all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including but not limited to costs of investigation, remedial or removal response, and reasonable attorneys' fees and cost of suit, arising out of or resulting from any Hazardous Material used or permitted to be used by such Owner or Occupant, whether or not in the ordinary course of business. The term (i) "Hazardous Materials" shall mean: asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law, and (ii) "Environmental Laws" shall mean: all federal, state, parish, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

(p) **Gas Stations.** A service station shall only be permitted on Commercial Lots with prior written approval of the WREB. The location and size of any such service station shall be determined by the WREB. Service stations must be properly landscaped and the WREB shall have the right to impose additional landscaping requirements with respect to a Commercial Lot upon which a service station is to be located. Any service station shall be of similar architectural quality and shall be consistent with the architectural themes of the Property. No fuel pumps shall be located on any Commercial Lot other than the Lot on which a service station is located.

(q) **Outside Sales.** No merchandise, equipment or services, including but not limited to vending machines, promotional devices and similar items, shall be displayed, offered for sale or lease, or stored within the sidewalks, parking and/or driveways; provided, however, the foregoing prohibition shall not be applicable to: (i) the permanent storage of shopping carts used by retail customers, so long as reasonably screened; (ii) the seasonal display and sale of bedding plants on the sidewalk in front of any Improvement; (iii) Property promotions or displays; (iv) any recycling center required by law, the location of which shall be subject to the

approval of the WREB; or (v) kiosks, pavilions, merchandise carts or any other similar structures.

(r) **Toxic Materials.** Any business which emits noxious, toxic or caustic or corrosive fuel or gas.

(s) **Dust**. Any business which emits dust, dirt or fly ash in excessive quantities.

(t) **Fireworks**. Any unusual fire or explosion, or any use which involves any firing, explosives or other damaging or dangerous hazards (including the storage, display or sale of explosives or fireworks or a shooting gallery).

(u) **Heavy Industrial Use**. Any heavy industrial use or business for a purpose which may cause objectionable odors and/or untidiness such as (but not limited to) stand-up or drive-in food facilities or other litter-creating operations; provided, however, that a sit-down or drive-through type restaurant is not precluded hereby.

(v) **Truck Parking.** The parking of trucks and/or delivery vehicles so as to unreasonably interfere with, or suffer or permit any use thereon to interfere with, the use of any driveways, walks, roadways, highways, streets, parking areas or other Common Areas, excluding loading areas, docks, and truck courts or turnarounds.

(w) **Outdoor Carnivals.** Outdoor circus or other outdoor entertainment, excluding temporary carnivals or entertainment in connection with the marketing of retail centers, not to exceed two (2) times per year.

(x) **Bars and Taverns.** Any bar or tavern, except a restaurant with a bar or tavern where the sale of alcoholic beverages does not exceed forty (40%) percent of the gross sales of such business.

(y) **Gaming Facilities**. Any casino, video poker facility, bingo halls, off-track betting parlor or similar facility at which games of chance are conducted.

3.6 **Property Identification Signs; Landscape Buffer.** Declarant hereby reserves the right to impose a nonexclusive perpetual servitude for the construction, reconstruction, replacement, operation, maintenance and repair of a sign structure, landscaping and entry features over, under, upon and across certain portions of the Property for identification of commercial and retail developments (the **"Property Identification Signs"**), together with reasonable access over, under, upon, through and across the Property to install, replace, maintain, repair and operate such utility lines necessary to provide power to illuminate any of the same.

3.6.1 **Panels.** Panels on the Property Identification Signs shall be designated by Declarant for the benefit of the Commercial Lots. The right of Owners and Occupants of Commercial Lots to place signage on the Property Identification Signs shall be determined as part of the review of site plans for development of a Commercial Lot and must be approved by the Declarant. The Property Identification Signs shall constitute Commercial Common Area.

3.6.2 **Expropriation.** In the event the area upon which any Property Identification Sign is located is taken by expropriation, condemnation, eminent domain or transfer in lieu thereof, the Declarant shall designate a replacement area with comparable visibility as close to the original location as is reasonably possible. The Declarant shall cause a new Property Identification Sign to be constructed using the award obtained from the expropriation proceedings. If the award received for the Property Identification Sign is less than the cost to replace the Property Identification Sign, the Persons entitled to place panels on the Property Identification Sign shall pay the deficiency based on the panel area allocated to each pursuant to the servitude grants, even if such panel area is not used.

3.7 **Protection of Owners and Others.** The Declarant may not adopt any rule in violation of the following provisions:

3.7.1 **Equal Treatment.** Similarly situated Owners shall be treated similarly; provided, that the Rules and Regulations may vary from one part of the Property to another, depending upon use or housing type.

3.7.2 **Signs and Displays**. The rights of Owners to display on Lots religious and holiday signs, symbols and decorations of the kinds normally displayed in or outside of buildings shall not be abridged; however, the Declarant may adopt restrictions for the reasonable time, place and manner (including design criteria) of such displays for the purpose of minimizing damage and disturbance to other Owners and Occupants, guests and customers. No Rules and Regulations shall regulate the content of political signs; however, Rules and Regulations may reasonably regulate the time, place and manner (including design criteria) of posting the signs.

3.7.3 **Household Composition**. No rule shall interfere with the freedom of Owners or Occupants of Residential Lots to determine the composition of their households, except that the Declarant shall have the power to require that all Occupants be members of a single family or housekeeping unit, and to limit the total number of Occupants permitted within the improvements on a Residential Lot, on the basis of the size and facilities of the Residential Lot and the improvements thereon, and the impact of the number of Occupants on the fair share and reasonable use of the Common Areas.

3.7.4 **Activities Within Lot**. No rule shall interfere with the activities carried on within the confines of Improvements on Lots, except that the Declarant may prohibit activities on Residential Lots not normally associated with property restricted to residential use, and it may restrict or prohibit activities that create monetary costs for the Declarant or other Owners, that create a danger to the health or safety of Occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions visible outside the Lot, that block the views from other Lots, or that create an unreasonable source of annoyance.

3.7.5 **Pets and Other Animals**. The Declarant may adopt Rules and Regulations regarding animals designed to minimize damage and disturbance to other Owners and Occupants of Residential Lots, including reasonable Rules and Regulations requiring damage deposits, waste removal, leash controls, noise controls, occupancy limits based on size and facilities of the Residential Lot, and fair share and reasonable use of the Common Area. Nothing in this provision shall prevent the Declarant from requiring removal of any animal that presents an actual threat to the health or safety of others or from requiring abatement of any nuisance or unreasonable source of annoyance.

3.7.6 **Allocation of Burdens and Benefits**. The initial allocation of financial burdens and rights to the use of Common Area among the various Lots shall not be changed to the detriment of any Owner over that Owner's objection expressed in writing to the Declarant. Nothing in this provision,

however, shall prevent the Declarant from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who abuse the Common Area, fail to pay assessments, or violate this Declaration. This provision does not affect the Declarant's right to increase the amount of Assessments as provided in this Declaration.

3.7.7 **Alienation.** No rule shall prohibit the transfer of title of any Lot, or require consent of the WREB for such transfer. Except as otherwise specifically provided for in this Declaration, the WREB shall not by rule impose any fee on the transfer of title of a Lot greater than an amount based on the costs to the WREB of the transfer; provided, however, this provision shall not preclude imposition of transfer or similar fees for the benefit of the WREB or other entities pursuant to other recorded covenants.

3.7.8 **Abridging Existing Rights**. If any new rule would otherwise require an Owner to dispose of property which had been maintained (a) in, on or as part of a Lot prior to the effective date of such rule; and (b) in compliance with all rules in force prior to the effective date of such rule, the new rule shall not apply to such Owner without its written consent, unless the rule or rules in question had been in effect at the time the Owner acquired its interest in the Lot.

ARTICLE IV. DESIGN REVIEW AND APPROVAL

The function of design review and approval is to encourage design and architectural harmony within WEST TRACE DEVELOPMENT.

4.1 **Plan Review by Declarant**. Each Owner, by accepting a deed or other act of sale or transfer, or other instrument conveying any interest in any portion of the Property, acknowledges that Declarant has a substantial interest in ensuring that the Improvements within the Property enhance Declarant's investment and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no work shall be commenced on the Owner's Lot unless and until Declarant, along with the prior approval of the Design Review Board, if such entity is created, has given its prior written approval for such work, which approval may be granted or withheld in Declarant's sole discretion. In reviewing and acting upon any request for approval, Declarant shall be acting in its own interest and shall owe no duty to any other Person. The rights reserved to Declarant under this Article shall continue until termination in a written instrument executed by Declarant and recorded in the Conveyance Records. Upon termination of Declarant's rights, or upon assignment of such rights to the Design Review Board, design review and approval shall be handled by the Design Review Board, and references in this Article to the Declarant shall be interpreted to mean the Design Review Board.

4.2 **Design Review**.

4.2.1 **Powers.** Declarant has the right to exercise control over all construction within the Property and review all exterior modifications to structures and Improvements, including but not limited to painting, renovations, and landscaping.

4.2.2 **Composition of Design Review Board.** The WREB is hereby designated by the Declarant as the Design Review Board. The WREB has the right to assign its rights and obligations hereunder to a three (3) member Design Review Board appointed by the WREB as follows: The members of the Design Review Board need not be Owners or members of the WREB, and may, but need not, include Design Professionals, whose compensation, if any, shall be established from time to time by the WREB. If a Residential Association or Commercial Association is hereafter created by Declarant, the Design Review Board shall include one member chosen by the Board of the Residential Association, and

one member chosen by the Board of the Commercial Association. The WREB may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. In addition, the WREB may retain Design Professionals to assist in the review of any application and may charge any fees incurred for such assistance to the applicant. The WREB may also establish a **"Modifications Committee"**, to review and approve any proposed modifications of Property.

4.2.3 **Compensation**. The professionals and staff assisting the Design Review Board may be paid reasonable compensation for services, as determined from time to time by the WREB. All members of the Design Review Board shall be reimbursed for their respective expenses incurred in furtherance of the authorized activities of the Design Review Board. All members of the Design Review Board may be paid reasonable compensation for their time and efforts in serving on the Design Review Board.

4.2.4 **Cost of Operation**. The Declarant shall be responsible for all reasonable costs of the Design Review, and each Lot shall bear its Proportionate Share of such costs.

4.2.5 **Personnel.** The Design Review Board may contract with individuals or companies as necessary to assist in the review process, as authorized pursuant to the budget for the Design Review Board. All such personnel, individuals and/or companies contracted in connection with the Design Review Board shall be considered as independent contractors of the WREB.

4.2.6 **Rules and Procedures**. The Design Review Board is authorized to adopt rules and procedures and to adopt, from time to time, amendments to such rules and procedures for the conduct of its business, consistent with the provisions of this Declaration. Any Owner shall be provided with a copy of such rules and procedures within fifteen (15) days of submission of a written request to the Design Review Board.

4.3 **No Work Without Approval**. Each Owner agrees that no work or improvements of any type, including, but not limited to, staking, clearing, excavation, grading, planting, and other site work or removal of landscaping materials, shall be constructed, commenced, erected, placed, or installed on any Lot, and no substantial addition, change or alteration shall be made on any Lot, unless and until the Design Review Board has reviewed the plans required to be submitted and has given its prior written approval for the work, which approval may be granted or withheld in its sole discretion. Approval will be in writing and shall in no way relieve the Owner of his responsibility and liability for adherence to any applicable restrictions, ordinances and codes.

4.3.1 Each lot's maximum fill and final elevation shall be determined and addressed in the individual subdivision restrictions.

4.4 **Design Guidelines - General**. Declarant hereby establishes the initial design and construction guidelines and review procedures (the "**Design Guidelines**") set forth in **Exhibit "C"** to this Declaration to provide guidance to the Design Review Board and Owners regarding matters of particular concern to Declarant. The Design Guidelines shall not be the exclusive basis for decisions hereunder, and compliance with the Design Guidelines shall not guarantee approval of a Residential Application or Commercial Application. The Design Guidelines may contain general provisions applicable to all of the Property, as well as specific provisions which vary from one portion of the Property to another, depending upon the location, type of construction or use, and unique characteristics of the property. Any Design Guidelines shall be subject to amendment from time to time in the sole discretion of the Declarant. Amendments to the Design Guidelines shall not require modification to or removal of structures

previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; amendments may remove requirements previously imposed or make the Design Guidelines otherwise more or less restrictive in whole or in part.

4.5 **Review Factors**. The Design Review Board must comply with the general intent of the Design Guidelines, but may consider (but shall not be restricted to consideration of) visual and environmental impact, ecological compatibility, topography and finish grade elevation, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life and Architectural merit. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements, and the opinion of the Design Review Board shall govern.

4.6 **Plan Review and Approval Procedure for Residential Lots**.

4.6.1 Each Owner of a Residential Lot shall submit an application to the Design Review Board for architectural review and approval in such form as may be required by the Design Review Board **("Residential Application")**. The Residential application shall include:

(a) One electronic copy in PDF or other acceptable format of a complete set of plans and specifications (the **"Residential Plans"**) prepared by an Architect licensed under the laws of the State of Louisiana, or by another Person acceptable to the Design Review Board, as the case may be, showing the site layout, height of proposed improvements, materials, floor plans, elevations, colors, garage door and garage specifications, landscaping, drainage, lighting, irrigation and other features of the proposed construction, as required by the Design Guidelines and as otherwise required by the Design Review Board;

(b) a complete list of all builders and contractors to be used on the job; and

(c) a non-refundable fee determined by the WREB, initially in an amount not to exceed **THREE HUNDRED and NO/100 DOLLARS** ($300.00). In addition, the Design Review Board may retain Design Professionals to assist in the review of any Residential Application and may charge reasonable fees incurred.

(d) The Design Review Board may require resubmission if an application is significantly deficient or the submission of additional information as it deems necessary to consider the Residential Application.

The requirement that Residential Plans be prepared by a Design Professional licensed under the laws of the State of Louisiana, or by another Person acceptable to the Design Review Board, may be waived by the Design Review Board, in its sole discretion. The Design Review Board shall, within thirty (30) days after Substantial Completion of any construction for which approval has been granted, return the Residential Plans to the Owner thereof. "**Substantial Completion**" for purposes of this Subsection 4.6.1 shall be deemed to occur on the date a permit or certificate for occupancy of the Lot is issued by the local governing authority.

4.6.2 The Design Review Board shall, within ten (10) business days after receipt of each submission of the entire Residential Application, advise the Person submitting the same, in writing,

at an address specified by that Person at the time of submission, of the (a) approval of Residential Plans; (b) approval as noted on Residential Plans; or (c) disapproval of Residential Plans, specifying the segments or features of Residential Plans which are objectionable and suggestions, if any, for the curing of objections. In the case of either (b) or (c) above, the Design Review Board shall, within five (5) business days after receipt of each submission of revised Residential Plans, advise the Person submitting the same, in writing, at an address specified by that Person at the time of submission, of the (a) approval of Residential Plans; (b) approval as noted on Residential Plans; or (c) disapproval of Residential Plans, specifying the segments or features of Residential Plans which are objectionable and suggestions, if any, for the curing of objections. In the event the Design Review Board fails to advise the submitting Person by written notice within the time set forth above of either the approval or disapproval of Residential Plans, the applicant may give the Design Review Board written notice of the failure to respond, stating that unless the Design Review Board responds within five (5) business days of receipt of such notice, approval shall be deemed granted. Upon further failure of the Design Review Board to so advise, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing pursuant to Section 4.10. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid is deposited with the U. S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of written notice also shall be sufficient and deemed to have been given at the time of delivery.

4.6.3 If construction does not commence on any work for which approval has been granted within twelve (12) months of approval, the approval shall expire and the Owner must re-submit its Residential Plans for reconsideration in accordance with the Design Guidelines, as are then in effect prior to commencing work. All work shall be completed within two (2) years of commencement or such other period as may be specified in the notice of approval (the "**Residential Completion Period**"), unless completion is delayed due to causes beyond the reasonable control of the Owner, such as an event of force majeure, hurricane, act of God, fire, explosion, extraordinary flood or similar occurrence (but not including reasonably foreseeable weather conditions or lack of financing). If all such work is not Substantially Complete within the Residential Completion Period, Owner shall pay to the Declarant the sum of TWO HUNDRED and NO/100 DOLLARS ($200.00) per day for each day the work remains uncompleted until the date on which it is Substantially Complete. "**Substantially Complete**" for purposes of this Subsection 4.6.4 shall be deemed to occur on the date a permit or certificate for occupancy of the Lot is issued by the local governing authority.

4.7 **Plan Review and Approval Procedure for Commercial Lots.**

4.7.1 **Preliminary Plan Submittal**. Each Owner of a Commercial Lot shall submit to the Design Review Board an application for preliminary architectural review and approval in such form as may be required by the Design Review Board **("Commercial Application")**. The Commercial Application shall include:

(a) Four (4) full sets of plans and specifications (the "**Commercial Plans**") prepared by an architect drawn to a scale typically produced by an architect in a 24" x 36" sheet format, printed legibly and showing the site layout, building setbacks, height of proposed improvements, proposed architectural materials, floor plans, elevations, proposed color palette, summary of parking requirements, landscaping, drainage, lighting, irrigation and other features of the proposed construction, as required by the Design Guidelines and as otherwise required by the Design Review Board.

(b) a complete list of all builders and contractors to be used on the job.

(c) a non-refundable fee in the amount of $1,000.00.

(d) floor plans, exterior building elevations and a site plan showing the site acreage, survey clearing, and topography; any existing improvements (such as utilities and fences); percentage of the site devoted to open space; existing vegetation, including trees to be preserved on landscape easements and along landscape setbacks on external and internal streets; building location and its size; building setbacks/dimensions; parking setbacks/dimensions; parking lot configuration, capacity and ratio; service areas, trash receptacles, mechanical equipment locations with screening method and details; fencing, if any; satellite dish or other similar items along with method of screening; sign location and details of sign; proposed irrigation layout; proposed landscaping plan; photo-metric drawing of the site lighting; monument signs and building signage; civil plan indicating drainage building finished floor, elevation and utility connections; and method of compliance with storm water management.

(e) rendering or colored sketch of exterior building appearance.

(f) colored elevation renderings.

(g) The Design Review Board may require the submission of additional information as it deems necessary to consider the Commercial Application.

Additional preliminary plan submittals may be assessed another non-refundable fee of $1,000.00 per review if the Owner makes significant changes to the Commercial Plans, or if the Commercial Plans do not incorporate design elements required by the Design Guidelines, or if the Design Review Board must schedule an additional review. No partial submittals shall be accepted. Owner shall submit the Commercial Plans and Commercial Application to the Design Review Board at such address that may be provided to Owners in writing. All Commercial Plans approved hereunder shall be at the discretion of the Design Review Board and shall be signed and sealed by a licensed Design Professional. The commercial project shall be named before it is submitted for review.

4.7.2 **Liability.** The members of the Design Review Board, and their agents and representatives shall not be liable to any person under any circumstances whatsoever in connection with its approval or disapproval of plans, drawings, or specifications, including without limitation, any liability based on soundness of construction, adequacy of plans, drawings or specifications, or otherwise. The Design Review Board shall not be bound by any prior approval of an existing commercial site on the Property.

4.7.3 **Other Materials**. Prior to preparing a Commercial Application, the Owner of the Commercial Lot should obtain copies of the Design Guidelines from Declarant and such additional infrastructure plans as required to properly integrate the proposed improvements with existing off-site and utility improvements adjacent to the Owner's site. In addition, the Owner should obtain copies of the most recent local zoning and property restrictions of record and building codes. The Property is subject to both City of Westlake and Declarant's development requirements.

4.7.4 **Types of Submittals**. There shall be three (3) types of submittals in the review process: conceptual submittal, preliminary plan submittal, and final plan submittal.

4.7.5 **Conceptual Submittal and Pre-Application Meeting**. The Owner and his architect shall arrange a "**Pre-Application Meeting**" with the Declarant before any plans have been prepared to discuss concepts and goals of the Owner, and Declarant. Conceptual submittal shall be presented at the Pre-Application Meeting to review the conceptual site, plan, and elevations and to alleviate any confusion of a party's interpretation of the Design Guidelines.

4.7.6 **Preliminary Approval Procedures**. The Design Review Board shall, within twenty (20) business days after receipt of each submission of the entire Commercial Application, return one (1) set of the Commercial Plans to the Owner, with a written notice describing the Design Review Board's comments, at an address specified by that Person at the time of submission, and one (1) set of the Commercial Plans shall be retained by the Design Review Board. After review of the Commercial Application, the Design Review Board shall return the Commercial Plans to the Owner marked "approved" or "approved subject to conditions" or "not approved". In the event the Design Review Board fails to advise the submitting Person by written notice within the time set forth above of either the approval or disapproval of Commercial Plans, the Owner may give the Design Review Board written notice of the failure to respond, stating that unless the Design Review Board responds within five (5) business days of receipt of such notice, approval shall be deemed granted. Upon further failure of the Design Review Board to so advise the Owner, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing pursuant to Section 4.10. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid is deposited with the U. S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of written notice also shall be sufficient and deemed to have been given at the time of delivery. After the Owner incorporates all necessary changes, Owner shall resubmit two (2) sets of its Commercial Plans for Final Approval of the Preliminary Submittal. One (1) set shall be returned to the Owner marked as approved. Commercial Plans approved in the preliminary submittal stage shall be submitted to the City of Westlake for approval prior to final plan submittal.

4.7.7 **Final Plan Submittal**. Each Owner who has received preliminary approval, shall submit its final plan to the Design Review Board for final approval. The submittal shall include:

(a) Four (4) full sets of Commercial Plans, including elevations, site plot plans, floor plans, cross-sections of buildings; drainage and grading plans (showing existing and proposed grades throughout the site), landscape plans, irrigation, sign criteria (building mounted and monument), photometrics for parking lot and building lighting, mechanical plans, electrical plans, plumbing plans, and any other plans necessary to illustrate the Design Guidelines. The Commercial Plans shall be comparable in content and detail to construction bid documents;

(b) A non-refundable review fee of $2,500.00;

(c) Samples of exterior building materials mounted on boards (24" x 36" material boards);

(d) Color board (with a 4" x 6" labeled sample of each color to be used);

(e) Colored elevation rendering(s) with applications of materials;

(f) Summary of square footage to satisfy the parking standards;

(g) Legal closing documents showing acreage, buyer/seller, and closing date;

(h) Signage plan (temporary and permanent locations and square footage); and

(i) All the information required for preliminary plan review.

4.7.8 **Final Approval Procedures**. The Design Review Board shall, within twenty (20) business days after receipt of each submission of the final submittal, return one (1) set of the Commercial Plans to Owner, with a written notice describing the Design Review Board's comments, at an address specified by that Person at the time of submission, and one (1) set of the Commercial Plans shall be retained by the Design Review Board. After review of the final submittal, the Design Review Board shall return the Commercial Plans to the Owner marked "approved" or "approved subject to conditions" or "not approved". In the event the Design Review Board fails to advise the submitting Person by written notice within the time set forth above of either the approval or disapproval of Commercial Plans, the Owner may give the Design Review Board written notice of the failure to respond, stating that unless the WREB responds within five (5) business days of receipt of such notice, approval shall be deemed granted. Upon further failure of the Design Review Board to so advise the Owner, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing pursuant to Section 4.10. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid is deposited with the U. S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of written notice also shall be sufficient and deemed to have been given at the time of delivery. After the Owner incorporates all necessary changes, Owner shall resubmit two (2) sets of its Commercial Plans for Final Approval for Construction. One (1) set shall be returned to Owner marked as approved.

4.7.9 **Final Approval**. After the Design Review Board has reviewed all submittals, the Design Review Board shall issue a written notice to Owner describing any additional changes or stating that the Commercial Plans are approved. This notice shall be mailed to the Owner within fourteen (14) days of the final plan submittal. The Commercial Plans shall meet all applicable local codes and ordinances, and Declarant shall not be responsible for any code or ordinance interpretation. Owner shall be responsible for all permits, plans, soils reports, utility letters, variances or any other legal documents or permissions required for constructing on a site.

4.7.10 **Construction.** Commercial Plan approval is valid for one (1) year from the date of final approval. If construction does not commence on any work for which final approval has been granted within such one (1) year period, the approval shall expire and the Owner must re-submit Commercial Plans for reconsideration in accordance with the Design Guidelines, as are then in effect prior to commencing work. All work shall be completed within two (2) years of commencement or such other period as may be specified in the notice of approval (the **"Project Completion Period"**), unless completion is delayed due to causes beyond the reasonable control of the Owner, such as an event of force majeure, hurricane, act of God, fire, explosion, extraordinary flood or similar occurrence (but not including reasonably foreseeable weather conditions). If all such work is not Substantially Complete within the Project Completion Period, Owner shall pay to the Declarant the sum of **TWO HUNDRED AND 00/100** ($200.00) **DOLLARS** per day for each day which improvements remain uncompleted until the date on which they are Substantially Complete. "**Substantially Complete**" for purposes of this Subsection 4.7.10 shall be deemed to occur on the date a permit or certificate for occupancy of the Commercial Lot is issued by the applicable local governing authority. Upon completion, the builder shall

submit to the Design Review Board a signed statement indicating that the project has been constructed according to the approved Commercial Plans.

4.8 **Future Proposals**. Each Owner acknowledges that the Persons reviewing Applications under this Article will change from time to time and that decisions regarding aesthetic matters and interpretation and application of the Design Guidelines may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed work until the work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Design Review Board may refuse to approve the same or similar proposals in the future. Approval of proposals, plans, specifications, or drawings for any work done or proposed, or in connection with any matter requiring approval, shall not be deemed a waiver of the right to withhold approval as to any similar proposals, plans, specifications, drawings or other matters whatever subsequently or additionally submitted for approval.

4.9 **Limitation of Liability**. The standards and procedures established by this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Property, but shall not impose any duty upon Declarant, an Association, a Board, the Design Review Board, nor any officer, director or committee member of any of the foregoing (collectively, the **"Indemnified Parties"**). With respect to the review of Owner plans and applications (a) the Indemnified Parties shall not bear any responsibility for ensuring structural integrity or soundness, or compliance with building codes and other governmental requirements, or for ensuring that structures on Lots are located so as to avoid impairing views from, or any other negative impact upon, neighboring Lots; (b) no representation is made that all structures and improvements constructed within the Property are or will be of comparable quality, value, size or design; and (c) the Indemnified Parties shall not be held liable for soil conditions, drainage problems or other general site work, nor for defects in work done according to approved plans and specifications, nor for any injury, damages or loss arising out of the manner, design or quality of approved construction on or modifications to any Lot. The limitations of liability contained within this Section 4.9 are not applicable to drainage problems caused by subdivision design.

4.10 **Variances.** The Design Review Board may, but shall not be required to, authorize variances from compliance with any of the provisions of the Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, or when architectural merit warrants a variance, as it may determine in its sole discretion. Variances shall be granted only when, in the sole judgment of the Design Review Board, unique circumstances exist, and no Owner shall have any right to demand or obtain a variance. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) stop the Design Review Board from denying a variance in other circumstances.

4.11 **Enforcement**. Any work performed in violation of this Article or in a manner inconsistent with the approved plans shall be deemed to be nonconforming. Upon written request from Declarant, the Owner whose Improvements are nonconforming shall, at such Owner's sole cost and expense, remove any nonconforming structure or improvement and restore the Property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required by this Article, Declarant shall have the right, without the posting of bond, to obtain injunctive relief from a court of competent jurisdiction requiring the Owner to remove the violation and restore the Property to substantially the same condition as previously existed. Upon demand, the Owner shall reimburse all costs incurred by Declarant, including reasonable attorney fees, in exercising its rights under this Article. In addition, Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions made pursuant to this Article.

ARTICLE V. MAINTENANCE AND REPAIR

5.1 **Maintenance of Lots.**

5.1.1 **General.** Each Owner shall maintain his or her Lot and all structures, parking areas, landscaping, and other Improvements comprising the Lot in a manner consistent with the Community Wide Standard.

5.1.2 **Landscaped Areas.** Each Owner shall also maintain, mow, irrigate, replace sod, and prune all landscaping lying within the right-of-way of adjacent public Streets between the Lot boundary and the curb of such public Street, and between the Lot boundary and any adjacent servitudes for pedestrian paths or sidewalks, in a manner consistent with the Community-Wide-Standard unless responsibility for maintaining such landscaped areas has been assigned to or assumed by Declarant.

5.1.3 **Enforcement.** In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, the Declarant may perform such maintenance responsibilities and assess all costs incurred by the Declarant against the Lot and the Owner as a Specific Assessment. The Declarant shall afford the Owner notice and a reasonable opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.1.4 **Sidewalks.** Any damage made to the sidewalks by the property owner and/or contractors will be repaired by the Declarant at the property owner's expense.

5.2 **Maintenance of Other Property.**

5.2.1 **Common Area**. The Declarant or any Association to whom Declarant has assigned such responsibility, shall maintain the Common Areas in a manner consistent with the Community-Wide Standard.

5.2.2 **Service Area**. The Owners of Lots within each Service Area (as defined in Section 7.8) shall be responsible for paying, through Service Area Assessments, the costs of operating, maintaining and insuring certain portions of the Common Area within or adjacent to such Service Area. This may include, without limitation, the costs of maintaining any signage, right-of-way and green space within the Service Area or between the Service Area and adjacent public or private Streets within the Service Area, and lakes within the Service Area, regardless of ownership and regardless of the fact that such maintenance may be performed by the Declarant or an Association; provided, however, all areas which are similarly situated shall be treated in the same or similar manner.

5.2.3 **Other**. Any condominium or similar owners association having responsibility for maintenance of any portion of the Property shall perform, with respect to such property, all maintenance required of an Owner under this Article in a manner consistent with the Community-Wide Standard. If it fails to do so, the Declarant may perform such responsibilities and assess the costs against all Lots within the boundaries of such association's jurisdiction.

5.3 **Responsibility for Repair and Replacement**. Each Owner shall be responsible for obtaining and maintaining property insurance on all insurable Improvements on his or her Lot. Each Owner shall also maintain liability insurance to fund its obligation to indemnify the Indemnified Parties as set forth herein.

5.3.1 **Damage or Destruction**. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Lot, the Owner shall proceed

promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV of this Declaration. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

5.3.2 **Other.** The requirements of this Section shall apply to any condominium or similar owners association responsible for any portion of the Property in the same manner as if it were an Owner and such property were a Lot. Additional recorded covenants applicable to any portion of the Property may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Lots within such portion of the Property and for clearing and maintaining such Lots in the event the structures are not rebuilt or reconstructed.

5.4 **Standard of Performance**. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Declarant or an Association may determine to be necessary or appropriate to satisfy the Community-Wide Standard. All maintenance and irrigation shall be performed in a manner consistent with the Community-Wide Standard and applicable laws.

ARTICLE VI. RESIDENTIAL AND COMMERCIAL ASSOCIATIONS

6.1 **The Westlake Real Estate Board**. It is the intention of Declarant that the WREB shall be the entity responsible for all duties and obligations, and entitled to all rights and privileges, of the Declarant, as owner, developer and operator of the Property, as described hereunder, pursuant to La.R.S.33:4712.9 and the Rules and Regulations. However, the Declarant and/or WREB may, at any time in accordance with RS 33:4712.9, create an Association and assign its duties hereunder to either a Residential Association and/or a Commercial Association. In such case, the provisions of this Article VI shall govern such Associations following their creation.

6.2 **Types of Associations**. The Residential Association and the Commercial Association may be organized and created under the provisions of this Declaration and applicable law. The Residential Association is the entity responsible for the management, maintenance, operation and control of the Residential Common Areas. The Commercial Association is the entity responsible for the management, maintenance, operation and control of the Commercial Common Areas.

6.3 **Function of Associations**. The Associations shall be responsible for management, maintenance, and operation of their respective Common Areas within the Property, which shall include without limitation the maintenance of such Common Areas in good, clean, attractive and sanitary condition, order and repair, consistent with this Declaration, the Community-Wide Standard, and the Design Guidelines. The Associations shall be the primary entities responsible for enforcement of this Declaration and the Rules and Regulations regulating use of the Property as their Boards may adopt. Upon delegation by Declarant or termination of Declarant's authority over certain architectural matters, pursuant to the provisions of Article IV, the Associations shall also be responsible for administering and enforcing the architectural standards and controls set forth in the Design Guidelines through the Design Review Board. The Associations shall perform their functions in accordance with this Declaration, their Bylaws, their Articles, Louisiana law, rules established by the Design Review Board and the Rules and Regulations. The Associations may enter into contractual agreements with each other to share facilities and Common Area, and to provide for any required contribution for expenses and costs of same.

6.4 **Joint Committee**. If both the Residential Association and the Commercial Association are created, a Joint Committee shall be formed to serve as a unifying entity for the residential and commercial elements of the Property. The Declarant shall appoint one (1) member of the Joint Committee, and each Association shall appoint one (1) member of the Joint Committee. At such time as Declarant has sold 75% of the Lots in WEST TRACE DEVELOPMENT, each Association shall appoint two (2) members to serve on the Joint Committee. The Declarant and the Associations shall cooperate with the Joint Committee in upholding the Declaration, the Community-Wide Standard and the Design Guidelines. Notwithstanding anything contained herein to the contrary, the Declarant or the Associations may delegate any of their maintenance responsibilities hereunder to the Joint Committee by agreement with the Joint Committee, including maintenance of any portion of the Common Area. No such delegation shall be revoked without the written consent of the Joint Committee.

6.5 **Membership in Associations.** Members of the Residential Association shall be all Owners of a Residential Lot and Owners of a residential unit located in a building on a Commercial Lot. Members of the Commercial Association shall be all Owners of Commercial Lots. A representative from the WREB shall be a member of each Association created. Each Member shall have one (1) vote for each Lot which it owns; provided, there shall be only one (1) vote per Lot, and no votes shall be exercised on account of any Lot which is exempt from assessment hereunder. When more than one (1) Person holds an interest in any Lot, all such persons shall be Members, provided, however, that the vote for such Lot shall be exercised as they determine and advise the Secretary of its Association in writing prior to the close of balloting. In no event shall more than one vote be cast with respect to any Lot which is owned by more than one (1) Person. Corporations, limited liability companies, partnerships and other entities shall notify the Association of the natural person who is authorized to exercise its vote; such entities shall provide such evidence of appointment and authority as its Board may require.

6.5.1 **Declarant Votes**. Declarant shall be entitled to three (3) votes for each Lot it owns in WEST TRACE DEVELOPMENT, until such time as 75% of the Lots in WEST TRACE DEVELOPMENT have been sold to third parties. Declarant shall be entitled to vote on matters presented by each Association until such time as Declarant is no longer a member. Votes based on the ownership of Residential Lots may only by cast at meetings of the Residential Association, and votes based on the ownership of Commercial Lots may only be cast at meetings of the Commercial Association.

6.5.2 **Termination of Declarant Membership**. Declarant's membership shall terminate five (5) years after the Declarant sells its final Lot in WEST TRACE DEVELOPMENT or when, in its discretion, Declarant so determines and declares so in a recorded instrument. After sale of its final Lot, Declarant shall have one (1) vote in each Association until such time as Declarant's membership is terminated.

6.5.3 **Exercise of Voting Rights**. Except as otherwise specified in this Declaration or the Bylaws of an Association, the vote for each Lot shall be exercised by the Owner of each Lot. Declarant, or its designated representative shall exercise the voting rights granted to Declarant.

6.6 **Board of Directors**.

6.6.1 **Types of Boards**. There shall be upon creation of each Association, a separate Board of Directors for each Association created. Except as otherwise expressly provided or as the context requires otherwise, each Board will be appointed and operated as set forth in this Section and in the Articles and Bylaws of the respective Association.

6.6.2 **Initial Composition**. Each Board shall initially consist of at least three (3) persons each of whom shall be appointed by the Declarant. When 75% of the Lots have been conveyed to Owners other than Declarant, the Board of Directors of each Association shall be elected as provided for in its respective Bylaws.

6.6.3 **Reciprocal Members**. If both Associations have been created, a Member of the Commercial Association shall at all times constitute one (1) seat on the Board of Directors of the Residential Association, and Member of the Residential Association shall at all times constitute one (1) seat on the Board of Directors of the Commercial Association.

6.6.4 **Compensation**. Directors of the Associations shall receive no compensation for their services unless expressly provided for in resolutions adopted by their Members, but may be reimbursed for expenses when approved by their Board.

6.6.5 **Additional Provisions**. Additional provisions concerning the operation of the Associations and the Boards are contained in their Articles and Bylaws.

ARTICLE VII. ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 **Initial Power Vested in WREB**. Up to and until such time as the Declarant assigns its rights and obligations under this Declaration to one or more Associations, the powers and responsibilities contained in this Article VII shall be vested entirely in the WREB.

7.2 **Acceptance and Control of Association Property**. Once formed, the Associations may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant and its designees may convey to an Association improved or unimproved real estate located within the Property, personal property, leasehold and other property interests; provided, however, Declarant shall not convey any real estate to an Association as Common Area which it knows to contain hazardous substances which would require remediation or create liability for the property owner under state or federal law. Such property so conveyed shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association, not inconsistent with this Declaration.

7.3 **Powers and Duties**. Pursuant to La. RS. 33: 4712.9, the WREB may but is not obligated to, and if created, to the extent permitted by applicable laws, the Associations may, but are not obligated to, provide the following services to the Common Areas:

7.3.1 water, sewer, electrical, telephone, cable television or other utility services, including the supply of irrigation water, and garbage and trash collection and disposal;

7.3.2 laundry equipment or service;

7.3.3 insect and pest control;

7.3.4 improvement of vegetation, fishing and wildlife conditions;

7.3.5 pollution and erosion controls;

7.3.6 emergency rescue, evacuation or safety equipment;

7.3.7 fire protection and prevention;

7.3.8 lighting of their respective roads and streets;

7.3.9 security systems and security patrols;

7.3.10 transportation;

7.3.11 day care and child care services;

7.3.12 landscape maintenance for and within their respective Common Areas;

7.3.13 recreation, sports, craft and cultural programs;

7.3.14 newsletters or other information services;

7.3.15 maintenance of yards on Lots (which includes without limitation thereto grass cutting and maintenance of shrubbery and flower beds);

7.3.16 any other service allowed, or not prohibited, by law to be provided by a community association organized as a not-for-profit corporation;

7.3.17 maintenance of utility servitude areas, public rights-of-way and other public or private properties located within reasonable proximity to the Property if its deterioration would affect the appearance of or access to the Property; and

7.3.18 cessation of existing garbage collection and contracting with a third party for such collection.

The WREB or an Association may contract to third parties for (a) the performance of all or any portion of the management of the Common Areas, (b) the maintenance and repair of the Common Areas, or (c) the provision of services deemed necessary, appropriate or desirable to enhance the lifestyle within the Property, and/or the amenities available to Owners. Such services may include, but shall not be limited to, refuse removal, insect control, basic access to cable television, and similar services. The cost of any such services made available to all Lots within the Property shall be included in the Common Expenses. The WREB or an Association may require that Owners contract with a third party for certain routine yard maintenance (which includes without limitation thereto grass cutting and maintenance of shrubbery and flower beds), in order to provide a uniform level of care within the Property. The WREB or Associations are also hereby granted an irrevocable power of attorney, coupled with an interest, to contract as an agent of Owner for routine maintenance and other services not required to be provided by the WREB or Associations, but the cost of which would be assessed to that Owner. For the purpose of exercising this agency, the WREB or such Association in that capacity may act on behalf of, and as such Owner's agent and attorney-in-fact to accomplish the authority intended. The terms and conditions of all such contracts as are entered into pursuant to this Section shall be at the discretion of the WREB or the Associations.

7.4 **Costs.** The cost to the WREB or the Associations in performing its obligations hereunder, and in connection with the services provided to the Owners shall be billed to the respective Members as Assessments. If requested by at least ten (10%) percent of the Members, a Community Meeting may be called and the offering of any additional service may be repealed by an affirmative vote of two-thirds (2/3) of the Members. Except as otherwise specifically provided herein, all costs associated

with maintenance, repair and replacement of the Common Areas shall be a Common Expense to be allocated among all Lots as part of the Regular Assessment, without prejudice to the right of the WREB or the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Area pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

7.5 **Compliance and Enforcement**. Failure of any Owner or Occupant to comply with the provisions of this Declaration shall be grounds for an action by the WREB, the Associations, or, in the proper case, by any aggrieved Owner, to recover for sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, including without limitation, reasonable attorneys' fees, in addition to those enforcement powers granted to the WREB or an Association pursuant to this Declaration, the Articles and the Bylaws. All remedies set forth in this Declaration, the Rules and Regulations, the Articles and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration, the prevailing party shall be entitled to recover all costs, including, without limitation, reasonable attorneys' fees and court costs. In the event that an Association fails to properly perform its maintenance responsibilities hereunder, Declarant may, upon not less than ten (10) days' notice and opportunity to cure such failure, cause the maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred in connection with the performance of the maintenance, with interest thereon, including without limitation, reasonable attorneys' fees.

7.6 **Implied Rights: Board Authority**. The WREB or an Association may exercise any right or privilege given to it expressly by this Declaration, its Articles or its Bylaws, and any right or privilege which could reasonably be implied from or which is reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, its Articles or the Bylaws, all rights and powers of the Association may be exercised by the Board without a vote of the membership of the Association.

7.7 **Indemnification of Officers, Directors and Others**.

7.7.1 **Association Indemnity**. The WREB and the Associations shall indemnify every officer, director and committee member ("**Indemnitees**") against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by its then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions as to which liability is limited under this Section and Louisiana law.

7.7.2 **No Personal Liability**. The Indemnitees shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The Indemnitees shall have no personal liability with respect to any contract or other commitment made or action taken, in good faith, on behalf of an Association (except to the extent that such Indemnitees may also be Members of an Association) and the Associations shall indemnify and forever hold each of their Indemnitees harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any Indemnitee may be entitled. The Associations and the WREB shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7.3 **Owner Indemnity**. Each Owner shall indemnify and hold harmless the WREB or the Associations and the Joint Committee from any loss, damages, and expenses, including counsel fees, which they may incur as a result of the failure of such Owner, any occupant of such Owner's Lot, or any contractor, employee, or agent of such Owner acting within the scope of his contract, agency or employment to comply with this Declaration, any Supplemental Declaration or other covenants applicable to such Owner's Lot, the Design Guidelines, the Community-Wide Standards, the Bylaws and Rules and Regulations.

7.8 **Security Issues**. The WREB and the Associations may, but shall not be obligated to, maintain or support activities within the Property to enhance the safety of the Property. Neither the WREB and the Associations, nor any successor or assign of Declarant, shall in any way be considered insurers or guarantors of security or safety within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system can not be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its Occupants and tenants, guests or customers, if any, that the WREB, any Associations, the Board, and any successor or assign of Declarant are not insurers or guarantors and that each Person using the Property assumes all risk for loss or damage to Persons, to Lots and to the contents and improvements of Lots resulting from acts of third parties.

7.9 **Provision of Services to Service Areas**. Portions of the Property may be designated as "**Service Areas**" for the purpose of receiving from the WREB or an Association a higher level of service, special services or other benefits not provided to all Lots within the Property (the "**Service Areas**"). Service Areas may be designated by Declarant in this Declaration or through any Supplemental Declaration, and shall be established by the Declarant upon petition of the Owners of one hundred percent (100%) of the property to be included in the proposed Service Area. A Lot may be included in multiple Service Areas established for different purposes. The cost of any special services or benefits which WREB or an Association provides to a Service Area shall be assessed against the Lots within the Service Area as a Service Area Assessment (a "**Service Area Assessment**"). Any Service Area established by the Declarant or a Board upon petition of the Owners within the Service Area may be dissolved or its boundary lines changed upon written consent of the Owners of at least seventy-five percent (75%) of the Lots within the Service Area. Any Service Area established by Supplemental Declaration may be dissolved or its boundary lines changed in accordance with the provisions of the Supplemental Declaration, or in the absence of such provisions, in accordance with the terms of this Section.

ARTICLE VIII. FINANCES AND ASSESSMENTS

8.1 **Authority to Assess Owners**. The Declarant is hereby authorized to levy assessments against each Lot as provided for in this Article and elsewhere in the Declaration, and the Rules and Regulations. The obligation to pay Assessments shall commence as to each Lot on the first (1st) day of the month following the month in which title to the Lot is transferred to the Owner thereof. The first annual Base Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot. Assessments shall be paid in such manner and on such dates as the Declarant may establish. Unless the Declarant otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in monthly installments equal to one-twelfth (1/12) of the annual assessment, payable on the first (1st) day of each month. If any Owner is delinquent in paying any Assessment or other charge levied on its Lot, the Declarant may require any unpaid installments of all outstanding assessments to be paid in full immediately.

8.2 **Budget Items**. The WREB shall prepare and submit an annual budget in compliance with La. R.S 33:4712.9 and the Rules and Regulations. If an Association is formed, the fiscal year of each Association shall begin January 1 of each year and end on December 31 of that year, unless the respective Boards selects a different fiscal year. The budget for the WREB and each Association shall estimate total expenses to be incurred by the WREB and the Association in carrying out their respective responsibilities. These expenses shall include, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering of all services required by this Declaration or properly approved in accordance with this Declaration. The budget may also include reasonable amounts, as determined by its Board, for working capital for the WREB and the Association and for reserves. If the Common Area is taxed separately from the Lots by the City or the Parish, or by any other governmental authority with taxing power, for ad valorem property taxes or any other taxes, the WREB or the Association shall include such taxes as part of the budget. Fees for professional management, accounting services, legal counsel and other professional services may also be included in the budget. The WREB budget shall be submitted for approval by the City Council of Westlake in accordance with La.R.S. 33:47129. The fiscal year for the WREB shall be July 1 through June 30th of each year.

8.3 **Base Assessments**.

8.3.1 **Authority**. The WREB, and an Association's Board if such authority is delegated to such Board, shall have the power to levy a base assessment (the "**Base Assessments**") against all Lots subject to assessment under this Declaration to fund its Common Expenses, based on such Lot's Proportionate Share. The Declarant may, at any time, delegate this authority to an Association. Lots owned by Declarant are not subject to Assessment.

8.3.2 **Establishment**. The Base Assessment shall be set at a level which is reasonably expected to produce total income equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through Base Assessments, the Declarant, in its discretion, may consider other sources of funds available to the WREB. The Declarant shall take into account the number of Lots subject to assessment under this Declaration on the first day of the fiscal year for which the budget is prepared and may consider the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

8.3.3 **Date of Commencement**. The annual Base Assessments shall begin on the day of conveyance of the first Lot to an Owner other than Declarant. The initial Assessment on any Lot subject to Assessment may be collected on the 1st day of the month following the month in which title is conveyed to the Owner. During the initial year of ownership, each Owner shall be responsible for the prorata share of the annual Base Assessment charged to each Lot, prorated to the day of closing.

8.3.4 **Discretion of Board**. When determining the Base Assessment due from each Lot Owner, the Declarant may, in its sole discretion, but is not obligated to, distinguish between Lots on which Improvements have not been constructed, Lots on which Improvements have been constructed and Lots on which Improvements are in the process of being constructed.

8.4 **Preparation and Approval of Annual Budget**.

8.4.1 **Initial Budget**. The WREB shall prepare and submit the initial budget in accordance with La.R.S. 33:4712.9 (J).

8.4.2 **Subsequent Years; Notice**. Subsequent budgets shall be prepared and submitted by the WREB in accordance with La.R.S. 33:4712.9 (J). If and when the Declarant assigns its

rights and obligations under this Declaration to an Association, the Board of each such Association shall submit an annual budget to the WREB for approval not less than sixty (60) days before the beginning of each fiscal year. The annual budget shall include estimated Common Expenses and estimated reserves and capital improvements. Thereafter, and in accordance with the budget, the Boards shall set the annual Base Assessment at a level sufficient to meet the budget. At least thirty (30) days prior to the beginning of the fiscal year, the Boards shall send a copy of the budget in itemized form and notice of the amount of the Base Assessment payable by each Member for such fiscal year for which it is to be effective to each Owner.

8.4.3 **Effective**. Owners shall have no right to amend or disapprove a budget submitted pursuant to the Enabling Statute. Any other budget and Base Assessment shall become effective unless disapproved at a meeting by Members representing at least seventy-five (75%) percent of the total votes in an Association. There shall be no obligation to call a meeting for the purpose of considering the budget, but a special meeting may be called for such purpose as set forth in the Bylaws. Notwithstanding the foregoing, if Base Assessments are to be increased to greater than 125% of the previous year's Base Assessment, and at least ten (10%) percent of the Members request review within thirty (30) days after the budget is delivered to the Members, the Boards shall call a Community Meeting to present the budget and to answer any questions. After presentation, the budget shall be deemed approved unless the percentage required to transact business is present and the budget is rejected by an affirmative vote of 75% of the Members. If the budget is rejected, the Boards shall approve a new budget within ten (10) days and send a copy to each Member.

8.4.4 **Failure to Prepare or Adopt Budget**. A Board's failure or delay in preparing or adopting the annual budget for any fiscal year shall not waive or release a Member's obligation to pay Base Assessments whenever the amount of such Assessments is finally determined. In the absence of an annual budget, each Member shall continue to pay the Base Assessment at the rate established for the previous fiscal period until notified otherwise by the Boards.

8.5 **Service Area Assessments**. The WREB, and an Association's Board if such authority is delegated to such Board, is hereby authorized to levy Service Area Assessments equally against all Lots in the Service Area (as defined in Section 7.8) which are subject to Assessment to fund Service Area expenses; provided, if so specified in the Supplemental Declaration applicable to such Service Area or if so directed by petition signed by a majority of the Owners within the Service Area, any portion of the Assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Lots in proportion to the benefit received.

8.5.1 **Budgeting and Allocating Service Area Expenses**. The WREB may include Service Area Assessments as part of its annual budget prepared in accordance with the Enabling Statute. If such authority is delegated to an Association, at least sixty (60) days before the beginning of each fiscal year, each such Board shall prepare a separate budget covering the estimated Service Area expenses for each Service Area expected to be incurred during the coming year. Each Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the respective Bylaws, and Rules and Regulations specifically authorizes the Board to assess certain costs as a Service Area Assessment. Any Service Area may request, by petition of Owners of at least a majority of the total Lots within the Service Area, that additional services or a higher level of services be provided by the WREB or an Association, and in such case, if approved by the WREB, any additional costs shall be added to such budget. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a Service Area expense, if any, within the Service Area.

8.5.2 **Notice**. Each Board shall cause a copy of such budget and notice of the amount of the Service Area Assessment for the coming year to be delivered to each Owner of a Lot in the Service Area at least thirty (30) days prior to the beginning of the fiscal year. Owners shall have no right to amend or disapprove a budget submitted pursuant to the Enabling Statute. Any other budget prepared by an Association's Board shall become effective unless disapproved by a majority of the Owners of Lots in the Service Area to which the Service Area Assessment applies. There shall be no obligation to call a meeting for the purpose of considering the budget; however a special meeting may be called for such purpose in accordance with the Bylaws of the applicable Association. This right to disapprove shall only apply to those line items in the Service Area budget which are attributable to services requested by the Service Area.

8.5.3 **Failure to Prepare or Adopt Service Area Budget**. A Board's failure or delay in preparing or adopting the annual budget for Service Area Expenses for any fiscal year shall not waive or release a Member's obligation to pay Service Area Assessments whenever the amount of such Assessments is finally determined. In the absence of an annual budget for Service Area Expenses, each Member who owns a Lot within the Service Area shall continue to pay the Assessment at the rate established for the previous fiscal period until notified otherwise.

8.6 **Budgeting for Reserves**. The WREB and each Association may build up and maintain reserves for working capital, contingencies and replacement, for both Common Areas and Service Areas, which shall be included in the budgets, respectively, and collected as part of the annual Base Assessment and Service Area Assessment, respectively. Extraordinary expenses attributable to Common Areas and/or Service Areas not originally included in the annual budgets, respectively, which may become necessary during the year shall be charged first against such reserves for Common Areas and Service Areas, respectively. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose unless approved by the WREB, or if such authority has been delegated to an Association, by a majority vote of the Members of the Association. If the reserves are inadequate for any reason, including nonpayment of any Assessments, the WREB and the Board may at any time levy and collect an emergency assessment. If there is an excess of reserves at the end of the fiscal year and the Board or the WREB so determines, the excess may be returned on a prorata basis to all Members, as of the date of such decision to refund such excess of reserves, who are current in payment of all Assessments due the WREB or an Association, or the excess may be used to reduce the following year's Assessments. The WREB and each Association may rely on its records as maintained by the Secretary of the WREB or the Association in determining the names and addresses of Members as of the date of any refund of excess.

8.7 **Capital Improvements**. Any substantial capital improvement to the Common Areas approved by the WREB, and if such authority is delegated to an Association's Board, must be ratified by a majority of the Members of the Association. If the substantial capital improvement is approved by the Members, the Board shall determine whether it shall be paid from Base Assessments or by Special Assessments. A capital improvement shall be considered substantial if the cost to the WREB or the Association of the Improvement is more than six (6%) percent of the annual budget, or if, when added to other capital improvements for the fiscal year in question, totals more than ten (10%) percent of the annual budget. Notwithstanding any inference to the contrary, any repair or replacement of existing Improvements shall not be considered a capital improvement for the purposes of this Section 8.7. Approval of the WREB or Design Review Board, if such authority is delegated to the Design Review Board, is required for all capital improvements. This Section shall not limit the right of Declarant to make Improvements to the Common Area.

8.8 **Special Assessments**. In addition to other authorized Base Assessments and Service Area Assessments, the WREB or an Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership if such Special Assessment is for Common Expenses, or against the Lots within any Service Area if such Special Assessment is for Service Area Expenses.

8.8.1 **Payment.** Special Assessments shall be payable in such manner and at such times as determined by each Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.8.2 **Approval**. Except as otherwise specifically provided in this Declaration, if assessed by an Association's Board, any Special Assessment which would exceed twenty (20%) percent of the annual budget for the year immediately preceding that in which the Special Assessment is approved shall require the affirmative vote or written consent of a majority of the Members of the Association (if a Common Expense) or Owners (if a Service Area Expense) representing Lots which will be subject to such Special Assessment.

8.8.3 **Capital Improvements**. Any substantial capital improvement which has been approved in accordance with this Declaration or any capital improvement not required to be approved by the Members may be paid by Special Assessment.

8.8.4 **Emergency Assessment**. By a two-thirds (2/3) vote, the WREB or a Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense which this Declaration or the law requires the WREB or an Association to pay (including but not limited to, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

8.8.5 **Discretion of Board**. When determining the Special Assessment due from each Owner, the WREB and each Board may, in its sole discretion, but is not obligated to, distinguish between Lots on which Improvements have not been constructed, Lots on which Improvements have been constructed, and Lots on which Improvements are in the process of being constructed.

8.9 **Specific Assessments**.

8.9.1 **General**. The WREB, and an Association's Board if such authority is delegated to such Board, shall have the power to levy Specific Assessments against a particular Lot or Lots constituting less than all Lots within the Property, as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, maid service, linen service, handyman service, pool cleaning, pest control, arrival and departure service, courier service, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the Bylaws,

Community-Wide Standards or Rules and Regulations, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their licenses, invitees, or guests; provided, the Board shall give the Owner prior written notice and an opportunity for a hearing, in accordance with the respective Bylaws and Rules and Regulations before levying a Specific Assessment under this Declaration.

8.9.2 **Other**. The WREB and each Association (if delegated such authority) may also levy a Specific Assessment against any homeowners, condominium or similar association to reimburse the WREB and the Association for costs incurred in bringing the property under its control into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws, the Community-Wide Standard and Rules and Regulations, provided its Board gives such homeowners association prior written notice and an opportunity to be heard before levying any such Assessment.

8.10 **Accounts**. Reserves shall be kept separate from other funds, either in a single account for all reserves or separated by purpose. All other sums collected by a Board with respect to Assessments and charges of all types may be commingled in a single fund.

8.11 **Delegation**. The WREB, by agreement with an Association or the Joint Committee, if any, may delegate to an Association or the Joint Committee responsibility for levying and collecting, on behalf of the WREB, all or any Assessments authorized hereunder. In such event, the Board shall provide a copy of the budget pursuant to which the Assessment is to be levied, if applicable, and notice of the amount of Assessments to be levied on each Lot to an Association or the Joint Committee at least thirty (30) days prior to the beginning of each fiscal year, in the case of an annual Assessment, or forty-five (45) days prior to the due date, in the case of any other Assessment. The Association or the Joint Committee shall include any such annual Assessment in its annual billing of Owners. Upon such delegation, the Association or the Joint Committee shall be responsible for collecting all Assessments on behalf of the WREB and disbursing the collected funds, less costs of collection, to the WREB. Upon such delegation, the Association or the Joint Committee shall have all rights and powers of collection which the WREB would have under this Declaration and Louisiana law.

8.12 **Personal Obligation**.

8.12.1 **Owner; Grantee**. Each Owner, by accepting a deed, act of sale, or other act of transfer, or entering into a recorded contract of sale for any portion of the Property, whether or not it shall be so expressed in such deed, act of sale or other instrument, is deemed to covenant and agree to pay all Assessments authorized in this Declaration. Each such Assessment, together with interest, late charges, costs, and reasonable attorneys' and paralegals' fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the Assessment arose.

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

8.12.3 **Non-use**. No Owner may exempt himself from liability for Assessments by non-use of Common Area, abandonment of his Lot, or any other means. The obligation to pay

Assessments is a separate and independent covenant on the part of each Owner, and binds the Owner for so long as he owns the Lot. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the WREB, an Association or a Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or Improvements, or from any other action it takes.

8.13 **Proof of Payment**. The WREB or an Association (if such authority has been delegated to it) shall, upon request, furnish to any Owner liable for any type of Assessment a certificate in writing signed by the Treasurer of the WREB or the Association or its designated agent setting forth whether such Assessment has been paid. Such certificate shall be conclusive evidence of payment, and such certificate, when co-signed by the Secretary of the WREB or the Association, may be relied upon by a good faith purchaser or mortgagee as evidence of payment of any Assessment therein stated to have been paid. The WREB or an Association may require the advance payment of a processing fee for the issuance of such certificate.

8.14 **Contracts**. The WREB and each Association (if such authority has been delegated to it) is specifically authorized to enter into subsidy contracts and contracts for "in kind" contribution of services, materials or a combination of services and materials with Declarant or other entities.

8.15 **Lien for Assessments; Remedies Upon Nonpayment**.

8.15.1 **General**. All Assessments authorized in this Article shall constitute a lien against the Lot against which they are levied until paid ("**Assessment Lien**"). The Assessment Lien shall also secure payment of interest, late charges (subject to the limitations of Louisiana law), and costs of collection (including attorneys' and paralegals' fees). Such Assessment Lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first priority Mortgage of record made in good faith and for value. Such Assessment Lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages on real property are foreclosed under Louisiana law.

8.15.2 **Subordination of Lien to Mortgages**. The Assessment Lien shall be superior to any mortgage, lien or encumbrance of any Mortgagee, other than the lien or charge of any first priority Mortgage of record made in good faith and for value, to which the Assessment Lien shall be subordinate.

8.15.3 **Foreclosure Sale**. The WREB and an Association (if such authority has been delegated to it) may bring an action at law against the Owner personally obligated to pay the Assessments, or may foreclose the Assessment Lien in a manner similar to foreclosure of a mortgage lien, or both. The WREB or an Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot. While a Lot is owned by the WREB or an Association following foreclosure, (a) no right to vote shall be exercised on its behalf and (b) no Assessment shall be levied on it. The WREB or an Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

8.15.4 **Sale by Owner**. The sale or transfer of any Lot shall not affect the Assessment Lien or relieve such Lot from the lien for any subsequent Assessments. However, the sale or transfer of any Lot pursuant to foreclosure of a first priority Mortgage given in good faith and for value shall extinguish the Assessment Lien as to any installments of such Assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title following foreclosure of such a Mortgage shall not be personally liable for Assessments on such Lot due prior to such acquisition of title.

Such unpaid Assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to Assessment, including such acquirer, its successors and assigns. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any Assessments and other charges due at the time of conveyance. However, no Person who obtains title to a Lot following foreclosure of a first priority Mortgage given in good faith and for value shall be liable for unpaid Assessments which accrued prior to such foreclosure.

8.15.5 **Other Remedies**. Fines up to a maximum of ten ($10.00) dollars per day may be assessed against a defaulting Owner, and all voting rights and rights to use of the Common Area shall be suspended for an Owner for any period during which any Assessment against the Owner's Lot remains unpaid past its due date. All Assessments, together with interest from the due date of such assessment at a rate determined by the WREB or an Association (but not less than 10% per annum, subject to the limitations of Louisiana law), reasonable late charges in such amount as is established by resolution, costs, and reasonable attorneys' and paralegals' fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid.

8.16 **Benefit**. The lien rights created in this Declaration shall be for the benefit of the WREB and the respective Association as to Assessments levied on behalf of the WREB or the Association, and for the benefit of the Joint Committee as to Assessments levied on behalf of the Joint Committee, but either the WREB or the Association or the Joint Committee, as applicable, shall be authorized to enforce the lien on behalf of and for the benefit of the other, as its attorney in fact. The Joint Committee's lien shall have priority over the lien in favor of the WREB or the Association.

8.17 **Exempt Property**. The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

8.17.1 any property owned by Declarant which is included in the Common Area; and

8.17.2 any property dedicated to and accepted by any governmental authority or public utility.

In addition, the WREB and each Board may, but shall not be obligated to, exempt from payment of Assessments any property devoted to museums, art galleries, sports, religious or civic purposes, or educational or family centers. Notwithstanding this provision, Declarant shall be entitled to vote according to Section 6.5.1 based on any Lots owned by Declarant.

8.18 **Capitalization of the WREB**. Upon acquisition of record title to a Lot by the first Owner thereof other than Declarant or a builder holding title for resale in the ordinary course of such builder's business, a contribution shall be made by or on behalf of the purchaser to the working capital of the WREB in an amount equal to two (2) months' Base Assessment per Lot or such greater amount as required by Declarant by contract with the Person to whom it may sell a Lot. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such Assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the WREB for use in covering Common Area expenses.

8.19 **Equitable Division of Assessments**. Base Assessments and Special Assessments shall be assessed equally among all Lots based on the Lot's Proportionate Share. If an Owner combines two (2) Lots or parts of Lots, with appropriate approval to so combine the Lots in accordance with this Declaration, and uses them as a single Lot, the WREB or the respective Association may (but is not required to) assess them as a single Lot in accordance with regulations consistently applied. In the event

the WREB or such Association agrees to assess two (2) Lots, or parts of Lots, as a single Lot, the Owner(s) of such Lots or portions of Lots, shall have only one (1) vote, with respect to such Lots or parts of Lots, as a Member, when voting on matters that are required to be voted on by the Members. It is understood that the WREB or an Association is not required to make the same decision on any requests submitted to them pursuant to this Section.

8.20 **Failure of Board to Act**. Failure to fix Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay the Base Assessment and Service Area Assessment on the same basis as during the last year for which an Assessment was levied, if any, until a new Assessment amount is determined, at which time any difference may be retroactively assessed.

ARTICLE IX. INSURANCE

9.1 **Review of Coverage**. The sufficiency of limits of coverage for each type of insurance procured by the WREB or an Association shall be reviewed at least once a year by one (1) or more qualified Persons, at least one (1) of whom must be familiar with insurable replacement costs in the Calcasieu Parish area.

9.2 **Required Coverages**. The WREB or an Association, acting through its respective Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

9.2.1 **Property**. Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable Improvements on its Common Area, if any, and on other portions of the Common Area to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. The WREB or Associations shall have the authority to and interest in insuring any privately or publicly owned property for which the WREB or Association has maintenance or repair responsibility. Such property shall include, by way of illustration and not limitation, any insurable Improvements on or related to parks, rights-of-way, medians, servitudes, and walkways which the WREB or Association is obligated to maintain. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the WREB or Associations shall have policy limits sufficient to cover the full replacement cost of the insured Improvements.

9.2.2 **Casualty**. Casualty insurance on its Common Area for fire damage. Endorsements for extended coverage, vandalism, malicious mischief, flood and windstorm should be obtained where available at reasonable cost. Coverage shall be in an amount not less than necessary to comply with the coinsurance percentage stipulated in the policy, but in any event not less than eighty (80%) percent of the insurable value (based upon replacement) of the Improvements constructed on its Common Area.

9.2.3 **General Liability**. Commercial general liability insurance on its Common Area, insuring the WREB, the Association and its Members for damage for injury caused by the negligence of the WREB or Association or any of its Members, employees, agents, or contractors while acting on its behalf insuring against liability arising out of, or incident to, the ownership and use of its Common Area and any water access located on or adjoining WEST TRACE DEVELOPMENT. If generally available at reasonable cost, the commercial general liability coverage (including both primary

and any umbrella policies) shall have a limit of at least $5,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost, which the WREB or an Association, in the exercise of its business judgment, deems advisable, the WREB or the Board shall obtain such additional coverages or limits. Whenever practicable, such insurance should be issued on a comprehensive liability basis and should contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the WREB, the Association, its Board or other Owners.

9.2.4 **Workers' Compensation**. Workers compensation insurance and employers liability insurance in the amounts required by applicable law.

9.2.5 **Director Liability**. Directors and officers liability coverage insuring against personal loss for actions taken by members and officers of a Board in the performance of their duties. Such insurance shall be of the type and amount determined by the Board in its discretion.

9.2.6 **Fidelity**. Fidelity insurance covering all Persons responsible for handling funds in an amount determined in the Board's best business judgment. Fidelity insurance policies shall include coverage for officers, directors and other Persons serving without compensation.

9.2.7 **Other**. Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance, boiler and machinery insurance, and building ordinance coverage.

9.3 **Lot Coverage**.

9.3.1 **Casualty Insurance.** Each Owner shall obtain casualty insurance for Improvements on his/her/its Lot, naming the WREB or its Association as an additional insured. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy, but in any event not less than eighty (80%) percent of the insurable value (based upon replacement) of the Improvements constructed on the Lot. Each Owner by accepting title to a Lot in WEST TRACE DEVELOPMENT agrees that each policy of casualty insurance insuring the Lot and any Improvements thereon shall contain a waiver of all subrogation rights as against the WREB or its Association.

9.3.2 **Flood Insurance**. If any part of the Lot is located in a Special Flood Hazard Area under the FEMA Flood Maps, the Owner of the Lot shall obtain a policy of flood insurance covering any dwelling on any part of the Lot in the amount equal to the lesser of (a) 100% of the insurable value of the improvements as determined by the insurer, or (b) the maximum amount of flood insurance coverage available under the National Flood Insurance Program.

9.3.3 If requested by the WREB or its Association, an Owner shall provide evidence of any insurance required under this Section 9.3 to the WREB or Association.

9.4 **Other Coverage by Owner**. Each Owner shall maintain liability insurance to fund its obligation to indemnify the WREB and its Association and the Joint Committee as set forth in this Declaration.

9.5 **Premiums**. Premiums for all insurance on its Common Area shall be Common Expenses and shall be included in the Base Assessment, except that premiums for property insurance obtained on

behalf of a Service Area shall be charged to the Owners of Lots within the benefitted Service Area as a Service Area Assessment.

9.6 **Policy Requirements**.

9.6.1 All WREB policies shall provide for a certificate of insurance to be furnished upon reasonable request, to the Owner of any insured Unit.

9.6.2 The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of this Section. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the WREB reasonably determines, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the WREB may specifically assess the full amount of such deductible against such Owner(s) and their Lots as Specific Assessments.

9.6.3 All insurance coverage obtained by a WREB shall:

(a) be written with a company whose primary business is providing insurance coverage and which is authorized to conduct business in the State of Louisiana and which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the WREB or an Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the WREB or an Association and the Owners. Policies, if any, secured by the WREB on behalf of any of its Service Areas shall be for the benefit of the Owners of Lots within such Service Area and their Mortgagees, as their interests may appear;

(c) not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees; and

(d) include an agreed amount endorsement, if the policy contains a co-insurance clause.

9.6.4 The WREB may secure insurance policies which name the Owners and their Mortgagees (as a class) as additional insureds and provide:

(a) a waiver of subrogation as to any claims against the Board, officers, employees, and manager, if any, and the Owners and their tenants, servants, agents, and guests;

(b) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(d) an endorsement requiring at least thirty (30) days' prior written notice to the WREB of any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

9.7 **Damage and Destruction**. Immediately after damage or destruction to all or any part of the Property covered by insurance written in the name of the WREB or an Association, the WREB or Association, or its authorized agent shall file all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

9.7.1 **Determination to Repair**. Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the WREB and, if such authority is delegated to an Association, the Members in the respective Association representing at least seventy-five (75%) of the total votes in such Association decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not available to the WREB or Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. Funds for such reconstruction shall come first from the insurance proceeds, then from reserves for the repair and replacement of such improvements, and then from any Special Assessments that may be necessary after exhausting insurance and reserves.

9.7.2 **Upon Determination Not to Repair**. If it is determined, in the manner described above, that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative Improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the WREB or an Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

9.7.3 **Proceeds**. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the WREB or Association or the Service Area, as appropriate, and placed in a capital improvement account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot. If insurance proceeds received, after application of any applicable deductible, are insufficient to cover the costs of repair or reconstruction, WREB may levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under this Section.

9.8 **Lot Improvements**. If fire or other casualty damages or destroys any Improvements on a Lot, the Owner of that Lot shall immediately proceed to rebuild and restore the Improvements to the condition existing immediately prior to such damage or destruction, unless other plans are approved by the Design Review Board. In doing so, the Owner shall comply with the provisions of this Declaration. If the Owner fails to clean and secure a Lot within thirty (30) days after a casualty, the WREB or the

Association may remove debris, raze or remove portions of damaged structures and perform any other clean up the WREB or the Association deems necessary to make the Lot safe and attractive. The cost of such clean-up shall be assessed to the Lot Owner as a Specific Assessment.

ARTICLE X. ADDITIONAL RIGHTS RESERVED TO DECLARANT

10.1 **Withdrawal of Property**. Until the Additional Property has been subjected to this Declaration or twenty-five (25) years after the recording of this Declaration, whichever is earlier, Declarant may unilaterally subject all or any portion of the Additional Property to the provisions of this Declaration or any Supplemental Declaration. Declarant may transfer or assign this right to annex property, provided that the transfer is memorialized in a written, recorded instrument executed by Declarant. Nothing in this Declaration shall be construed to require Declarant or any of its successors or assigns to annex or develop any of the Additional Property in any manner whatsoever. Such annexation shall be accomplished by filing a Supplemental Declaration in the Conveyance Records, describing the property to be annexed and specifically subjecting it to terms of this Declaration. A Supplemental Declaration shall not require the consent of any Lot Owners. Any annexation shall be effective upon the filing for record of such Supplemental Declaration, unless otherwise provided therein.

10.2 **Amendment.** This Article shall not be amended without the prior written consent of Declarant, so long as Declarant owns any part of the Property or Additional Property. Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the Property from the coverage of this Declaration, provided the withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Property. The amendment shall not require the consent of any Person other than Declarant, unless the property is Common Area, in which case the consent of the Associations shall be required if such authority has been delegated to an Association.

10.3 **Right to Transfer or Assign Declarant Rights**. Any or all of the rights and obligations of Declarant set forth in this Declaration may be transferred in whole or in part to other Persons, including to one or more Associations as set forth herein, provided that such transfer shall neither reduce any obligation nor enlarge a right beyond that of Declarant under this Declaration or the Bylaws. No such transfer shall be effective unless it is memorialized in a written instrument signed by Declarant and duly recorded in the Conveyance Records. The foregoing shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration, where Declarant does not intend to transfer such right in its entirety, and in such case, it shall not be necessary to record any written assignment, unless necessary to evidence Declarant's consent to such exercise.

10.4 **Right to Use Common Area**. Declarant and its designees may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be required, convenient or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model homes and offices, and sales offices. Declarant and its designees shall have servitudes for access to and use of such facilities. Declarant and its designees, during the course of construction on the Property adjacent to any Common Area, may use such Common Area for temporary storage and for facilitating construction on adjacent or nearby property. Upon cessation of such use, the user of such Common Area shall restore it to its condition prior to such use. If Declarant's use under this Section results in additional costs to an Association, Declarant shall not be obligated to pay any use fees, rent or similar charges for its use of Common Area pursuant to this Section. Declarant shall also have a right of use and a servitude over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate, in its sole discretion.

10.5 **Right to Approve Additional Covenants**. No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instruments affecting any portion of the Property without the prior written consent of Declarant. Any such recordation without Declarant's consent shall result in such instrument being void and of no force and effect.

10.6 **Right to Approve Changes in Community Standards**. Notwithstanding any contrary provision of this Declaration, no amendment to, or modification or restatement of this Declaration, any Rules and Regulations, Community-Wide Standard or the Design Guidelines, shall be effective without prior notice to and the written approval of Declarant, so long as Declarant owns any portion of the Property or Additional Property.

10.7 **Amendment and Termination of Rights**. The rights contained in this Article shall terminate upon the earlier of the following: (a) the date which is twenty-five (25) years from the date this Declaration has been filed for recording in the Conveyance Records; or (b) the date on which a written instrument is filed by Declarant for record in the Conveyance Records stating that it has surrendered and terminated its reserved rights hereunder.

10.8 **Declarant's Right to Repurchase**. Unless otherwise agreed to in writing by the Declarant, in the event that an Owner purchases an unimproved Lot, or interest therein, and does not commence construction within three (3) years from the date of such purchase, Declarant shall have the right to purchase such Lot under the same terms and at the same price for which such Lot was originally sold. For purposes of this Section, the date upon which construction is deemed to have begun shall be the date on which the slab for the primary building shall be poured. **PROSPECTIVE PURCHASERS ARE HEREBY NOTIFIED OF THIS RIGHT TO REPURCHASE, AND TAKE ANY INTEREST IN ANY LOT SUBJECT TO THIS PROVISION.**

10.9 **Administrative Fee for Short Term Lot Holdings.** Unless otherwise agreed to in writing by the Declarant, in the event that a Lot is offered for sale by an Owner within eighteen (18) months of such Owner purchasing said Lot, upon consummation of the sale of the Lot, Owner shall pay an administrative fee of one percent (1%) of the sales price to Declarant. **PROSPECTIVE PURCHASERS ARE HEREBY NOTIFIED OF THIS ADMINISTRATIVE FEE, AND TAKE ANY INTEREST IN ANY LOT SUBJECT TO THIS PROVISION.**

ARTICLE XI. SERVITUDES

11.1 **Servitudes in the Common Area**. Every Owner shall have a right and nonexclusive servitude of use, access and enjoyment in and to the Common Area, subject to: (a) this Declaration, the Bylaws and any other applicable covenants and servitudes; (b) any restrictions or limitations contained in any deed, act of sale or other act of transfer conveying such property to an Association, if applicable; (c) the right of the WREB or Association to adopt Rules and Regulations regulating the use and enjoyment of their respective Common Area, including rules restricting use of recreational facilities within the Common Area to Owners or Occupants of Lots and their guests, and rules limiting the number of guests who may use the Common Area; (d) the right of the WREB or the Association to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration; and (e) the rights of certain Owners to the exclusive use of those portions of the Common Area designated "**Exclusive Common Area**", if any, as more particularly described in Article XIII. Any Owner may extend its right of use and enjoyment to its Occupants, the members of its family, lessees and social invitees, customers, employees or guests subject to reasonable regulation as provided for herein.

11.2 **Servitudes for Encroachment**. There shall be reciprocal servitudes for encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots, due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered on a Lot or the Common Area (in accordance with the terms of this Declaration) to a distance of not more than six inches (6"), as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall any servitude for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, Occupant or the WREB or the Association.

11.3 **Servitudes for Utilities**. There is hereby reserved by and to Declarant, so long as Declarant owns any portion of the Property, and there is hereby granted to the WREB or the Associations, if any, and to the respective designees of each (which may include, without limitation, any municipality or public or private utility company), access and maintenance servitudes upon, across, over and under all of the Property, to the extent necessary for the purpose of replacing, repairing and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas and electricity and for the purpose of installing and maintaining any of the foregoing on property which they own or on property where servitudes are designated for such purposes on recorded plats of the Property.

11.3.1 These servitudes shall not entitle the holders to construct or install any of the foregoing systems, facilities or utilities over, under or through any existing building on a Lot, and any damage to a Lot resulting from the use of these servitudes shall promptly be repaired by and at the expense of the Person exercising the servitude. The exercise of these servitudes shall not unreasonably interfere with the use of any Lot and, except in the case of an emergency entry onto a Lot, shall be made only after notice to the Owner or Occupant.

11.3.2 Declarant specifically grants to the local water supplier, electric company and natural gas supplier servitudes across the Property for ingress, egress, installation, reading, replacing, repairing and maintaining utility lines, cables, pipes, wires, meters and boxes. However, the exercise of these servitudes shall not extend to permitting entry into the building on any Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Declarant.

11.4 **Servitudes for Lakes and Wetlands Maintenance and Flood Water.** Declarant reserves for itself and its successors, assigns and designees, the nonexclusive right and servitude, but not the obligation, to enter upon the lakes, ponds, streams and wetlands located within the Property to (a) install, keep, maintain and replace pumps, systems and any parts thereof, in order to provide water for the irrigation of any of the Common Area; (b) construct, maintain and repair any bulkhead, wall, dam or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration.

11.4.1 Declarant's rights and servitudes provided for in this Article shall continue so long as necessary or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. Declarant, and its respective designees shall have a servitude of access over and across any of the property abutting or containing any portion of any of the lakes, ponds, streams or wetlands, to the extent necessary to exercise their rights under this Article.

11.4.2 There is further reserved herein for the benefit of Declarant, and its designees, and granted to the applicable Association, for itself and its designees, a perpetual, nonexclusive right and servitude of access and encroachment over the Common Area and Lots (but not the buildings thereon)

adjacent to or within fifty feet (50') of lake beds, ponds and streams within the Property, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the lakes, ponds, streams and wetlands; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams and wetlands; and (d) enter upon and across such portions of the Property to the extent reasonably necessary for the purpose of exercising their rights under this Article. All Persons entitled to exercise these servitudes shall use reasonable care in the exercise, and repair any damage resulting from the intentional exercise, of such servitudes. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes or other natural disasters.

11.5 **Servitudes to Serve Additional Property**. Declarant hereby reserves for itself and its duly authorized agents, representatives, successors-in-title, assigns, licensees and mortgagees, a perpetual nonexclusive servitude over the Common Area for the purposes of enjoyment, use, access and development of the Property, whether or not such property is made subject to this Declaration. This servitude includes, but is not limited to, right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with the development of such property. Declarant further agrees that if the servitude is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, Declarant, its successors or assigns, shall enter into a reasonable agreement with the WREB or the Association to share the cost of maintenance of any private roadway serving such property.

11.6 **Servitude for Maintenance, Emergency and Enforcement**. Declarant, WREB or the Association, and their respective designees shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons, to perform their maintenance obligations, and to inspect for the purpose of ensuring compliance with this Declaration, the Community-Wide Standard or the additional Rules and Regulations, which right may be exercised by any member of the WREB or the Association, officers, agents, employees and managers of each, and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner or Occupant fails or refuses to cure the condition within a reasonable time after requested to do so by the WREB or Association, but shall not authorize entry into any single family detached dwelling or townhouse without permission of the Owner or Occupant, except by emergency personnel acting in their official capacity.

11.7 **Servitude for Use of Private Streets**. Declarant hereby creates a perpetual, nonexclusive servitude for access, ingress and egress over the private streets within the Common Area, for: (a) law enforcement, fire fighting, paramedic, rescue and other emergency vehicles, equipment and personnel; (b) school buses; (c) U.S. Postal Service delivery vehicles and personnel; (d) private delivery or courier services; and (e) vehicles, equipment and personnel providing garbage collection service to the Property; provided, such servitude shall not authorize any such Persons to enter the Property except while acting in their official capacities.

11.8 **Servitudes for Stormwater Drainage and Retention**. Each portion of the Property is hereby subjected to a nonexclusive servitude to and for the benefit of each other portion of the Property for the purpose of stormwater drainage and runoff in accordance with the master drainage plan established by Declarant for the Property, which servitude shall include, but shall not be limited to, the right to tie in to existing stormwater drainage facilities and to divert stormwater runoff from each Lot into such

stormwater drainage facilities at such points and in such manner as approved by Declarant, and for the flow of stormwater runoff over the Property to such points and from such points through the stormwater drainage facilities into wetlands, ponds or other retention facilities within or outside the Property. The foregoing servitudes shall be subject to any and all restrictions regarding quantity, rate and quality of discharge which Declarant may hereafter impose or which may be imposed on the Property by an Owner or by any governmental entity having jurisdiction over the Property.

11.9 **Servitudes for Golf Course**.

11.9.1 Each portion of the Property adjacent to a Golf Course is burdened with a servitude permitting golf balls unintentionally to come upon such property and for golfers at reasonable times and in a reasonable manner to come upon the exterior portions of such property to retrieve errant golf balls; provided, however, if any Lot is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this servitude shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this servitude:

(a) Declarant and the WREB (in their capacity as such);

(b) the Associations or their Members (in their capacities as such);

(c) successors-in-title to any Golf Course, or assigns;

(d) any successor to Declarant;

(e) any builder or contractor (in their capacities as such);

(f) any Engineer, Planner, Architect, or Landscape Architect;

(g) any officer, director, member or partner of any of the foregoing.

11.9.2 The owners of the Golf Course, their respective agents, successors and assigns, shall at all times have a right and non-exclusive servitude of access and use over those portions of the Common Area reasonably necessary to the operation, maintenance, repair and replacement of their Golf Course.

11.9.3 The Property immediately adjacent to the Golf Course is hereby burdened with a non-exclusive servitude in favor of the adjacent Golf Course for overspray of water from the irrigation system serving the Golf Course. Under no circumstances shall the WREB, the Associations or the owners of the Golf Course be held liable for any damage or injury resulting from such overspray or exercise of this servitude.

11.9.4 The owners of the Golf Course, their respective successors and assigns, shall have a perpetual, exclusive servitude of access over the Property for the purpose of retrieving golf balls from bodies of water within the Common Area lying reasonably within range of golf balls hit from their Golf Course.

11.10 **Mineral Servitude.** Declarant reserves unto itself, its successors and assigns, (and each deed or act of cash sale shall contain such reservation) all of the oil, gas, sulphur and other minerals, ores and hydrocarbons of every kind and character that may now or hereafter be found, located, contained in, developed or taken from the Property, as well as all mineral and royalty rights which appertain to the

Property, for the maximum time permitted by law (such reservation, the "**Mineral Servitude**"). This Mineral Servitude is reserved and granted under and pursuant to La. R.S. §31:149, et seq. Declarant, for itself, its successors and assigns, stipulates and agrees, that in connection with the exploration for and development of oil, gas, sulphur and other minerals, ores and hydrocarbons and the conducting of any seismic investigations, neither it nor anyone claiming by, through or under it shall have the right to enter upon or utilize the surface of any Lot in the Property for the purpose of exploring for or developing any oil, gas, sulphur or other minerals, ores or hydrocarbons, it being understood and agreed that all exploration for and/or development of such minerals and mineral and royalty rights beneath any Owner's Lot shall be through inclusion of the Property in a voluntarily established unit or unit created by the proper agency of the State of Louisiana, or through directional drilling or exploration. No Lot shall be used for the purpose of boring, mining, quarrying, exploring for, producing or removing oil or other hydrocarbons, minerals, gravel or earth except in the case of soil borings in connection with soil analysis for foundation design; provided, however, that offsite exploration for or production of oil, gas or other minerals lying beneath the surface of a Lot through directional or horizontal drilling methods or otherwise shall be allowed if such directional or horizontal drilling does not penetrate or otherwise disturb any portion of the earth within five hundred (500') feet of the surface of any Lot. Provided, further, that any and all soil bores and soil test drill holes, regardless of their purpose, shall be filled with a permanent sealing material to prevent the seeping or leaking of subsurface water, groundwater and/or other liquids and substances to evacuate to the surface through such hole or boring.

ARTICLE XII. GOLF COURSE

12.1 **Ownership and Operation of Golf Course**. All Persons, including all Owners, hereby acknowledge that no representations or warranties have been or are made by Declarant or any other Person with regard to the continuing existence, ownership or operation of the Golf Course and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed or joined into by Declarant. Further, the ownership and/or operation of the Golf Course may change at any time and from time to time by virtue of, but without limitation, to (a) the sale to or assumption of operations of the Golf Course by an independent entity or entities; (b) the creation or conversion of the ownership and/or operating structure of the Golf Course to an "equity" club or similar arrangement whereby the Golf Course or the rights to operate it are transferred to an entity which is owned or controlled by its members; or (c) the transfer of ownership or control of the Golf Course to one or more affiliates, shareholders, employees, or independent contractors of Declarant; and (d) the transfer of ownership or control of the Golf Course to a third party who ceases to use the property as a Golf Course, if permitted by applicable law. No consent of the Association or any Owner, shall be required to effectuate such transfer or conversion.

12.2 **Right to Use**. Neither membership in the Associations nor ownership or occupancy of a Lot shall confer any ownership interest in or right to use the Golf Course. Rights to use the Golf Course will be granted only to such Persons, and on such terms and conditions, as may be determined from time to time by the respective owner(s) of the Golf Course. The owner(s) of the Golf Course shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Golf Course, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents.

12.3 **View Impairment**. Neither Declarant, the Associations, nor the owners or operators of the Golf Course guarantee or represent that any view over and across the Golf Course from adjacent Lots will be preserved without impairment. The owners of the Golf Course, if any, shall have no obligation to

prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to preserve their Golf Course from time to time. In addition, the owners of the Golf Course may, in their sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways and greens on their Golf Course from time to time. Any such additions or changes to the Golf Course may diminish or obstruct any view from the Lots and any express or implied servitudes for view purposes or for the passage of light and air are hereby expressly disclaimed.

12.4 **Limitations on Amendments**. In recognition of the fact that the provisions of this Article are for the benefit of the owner(s) of the Golf Course, no amendment to this Article, and no amendment in derogation of any rights reserved or granted to the owners of the Golf Course by other provisions of this Declaration, may be made without the written approval of the owner(s) of the affected Golf Course. The foregoing shall not apply, however, to amendments made by Declarant.

12.5 **Jurisdiction and Cooperation**. It is Declarant's intention that the Associations and the owners of the Golf Course shall cooperate to the maximum extent possible in the operation of the Property and the Golf Course. Each shall reasonably assist the other in upholding the Community-Wide Standard. The Associations shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Course.

ARTICLE XIII. EXCLUSIVE COMMON AREA

13.1 **Purpose.** **C**ertain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners, occupants and invitees of Lots within a particular Service Area. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area within a particular Service Area. All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed as a Service Area Assessment against the Owners of Lots in Service Areas to which the Exclusive Common Area is assigned.

13.2 **Designation.** Initially, Declarant shall designate any Exclusive Common Area and shall, if it so chooses, assign the exclusive use thereof in the deed, act of sale, or other act of transfer conveying the Common Area to an Association or designate it as such on the plat of survey relating to such Exclusive Common Area. No such assignment shall preclude Declarant from later assigning use of the same Exclusive Common Area to additional Lots and/or Service Areas so long as Declarant has a right to subject Additional Property to this Declaration. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of a particular Service Area and Exclusive Common Area may be reassigned upon the vote of a majority of the votes within the Service Area(s) to which the Exclusive Common Areas are assigned, if applicable, and within the Service Area(s) to which the Exclusive Common Areas are to be assigned. As long as Declarant owns any property subject to this Declaration or has the right to subject Additional Property to this Declaration, any such assignment or reassignment shall also require Declarant's consent.

13.3 **Use by Others**. The WREB may permit Owners of Lots in other Service Areas to use all or a portion of such Exclusive Common Area upon payment of user fees, which fees shall be used to offset the Service Area Expenses attributable to such Exclusive Common Area.

ARTICLE XIV. PARTY WALLS AND OTHER SHARED STRUCTURES

14.1 **General Rules of Law to Apply**. Each wall, fence, driveway or similar structure built as a part of the original construction on the Lots which serve and/or separate any two adjoining Lots shall constitute a "**Party Structure**". To the extent not inconsistent with the provisions of this Section, the general rules of Louisiana law regarding party structures and liability for property damage thereto, due to negligence or willful acts or omissions, shall apply.

14.2 **Maintenance, Damage and Destruction**. All Owners who make use of any Party Structure shall share the cost of reasonable repair and maintenance of such structure equally. If a Party Structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners subsequently use the structure, they shall contribute to the restoration cost in equal portions. However, such contribution will not prejudice the right to call for a larger contribution for the other users under any applicable rule of law regarding liability for negligent or willful acts or omissions.

14.3 **Right to Contribution Runs With Land**. The right of an Owner to contribution from any other Owner under this Article shall run with the land and shall pass to such Owner's successors-in-title.

ARTICLE XV. LITIGATION MATTERS AND DISPUTE RESOLUTION

If created pursuant to this Declaration, the provisions of this Article 15 shall apply to each Association so created and its respective Board and Members. The provisions of Article XV shall not apply to the Declarant or the WREB.

15.1 **Consensus for Association Litigation**. Except as provided in this Section, the Associations shall not commence judicial or administrative proceedings without the prior approval of the WREB and at least seventy-five (75%) percent of their Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Governing Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of Assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

15.2 **Alternative Method for Resolving Disputes**. The Associations, their officers, directors, and committee members, all Persons subject to this Declaration (other than Declarant and the WREB) and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "**Bound Parties**"), agree to encourage the amicable resolution of disputes involving the Property without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to use good faith efforts to resolve those claims, grievances or disputes described in Section 15.3 ("**Claims**") using the procedures set forth in Section 15.4 before filing suit in any court.

15.3 **Claims.** Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligation and duties of any Bound Party under the Governing Documents, or relating to the design or construction of Improvements on the Property, shall be subject to the provisions of Section 15.4. Notwithstanding the

above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 15.4:

15.3.1 any suit by an Association against any Bound Party to enforce the provisions of Article VI;

15.3.2 any suit by an Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the an Association's ability to enforce the provisions of this Declaration;

15.3.3 any suit between Owners which does not include Declarant or an Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

15.3.4 any suit in which any indispensable party is not a Bound Party; and

15.3.5 any suit which otherwise would be barred by any applicable statute of limitations.

15.3.6 With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 15.4.

15.4 **Mandatory Procedures**.

15.4.1 **Notice**. Any Bound Party having a Claim ("**Claimant**") against any other Bound Party ("**Respondent"**) (collectively, the "**Parties"**) shall notify each Respondent in writing (the "**Notice"**), stating plainly and concisely:

(a) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(c) Claimant's proposed remedy; and

(d) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

15.4.2 **Negotiation**. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Upon receipt of a written request from any Party, accompanied by a copy of the Notice, a Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if the respective Association is not a Party and the Board, in its discretion, believes its efforts will be beneficial to the Parties and to the welfare of the community.

15.4.3 **Mediation**. If the Parties do not resolve the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties), the negotiations shall be terminated ("**Termination of Negotiations**"), and Claimant shall have

thirty (30) additional days within which to submit the Claim to mediation pursuant to the provisions of this Section 15.4.3:

(a) If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, however, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

(b) Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("**Termination of Mediation**"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

15.4.4 **Arbitration.**

(a) If the Parties do not resolve the Claim through mediation, the Claimant shall have thirty (30) days following the Termination of Mediation notice by the mediator to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in **Exhibit "D"** or the Claim shall be deemed abandoned, and the Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge the Respondent from any liability to Persons not a Party to the foregoing proceedings.

(b) Unless the Parties agree in writing to be bound by the arbitrator's decision (the "**Award"**) prior to the commencement of arbitration proceedings under the foregoing paragraph, any Party shall be free to reject the Award and sue in a court of competent jurisdiction or initiate proceedings before any appropriate administrative tribunal.

15.5 **Allocation of Costs of Resolving Claims**.

15.5.1 Each Party shall bear all of its own costs incurred prior to and during the proceedings described in Section 15.4, including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section 15.4.

15.5.2 Each Party shall bear all of its own costs (including the fees of its attorney or other representative) incurred after the Termination of Mediation under Section 15.4 and share equally in the costs of conducting the arbitration proceeding pursuant to Section 15.4 (collectively, "**Post Mediation Costs"),** except as otherwise provided in this subsection.

15.6 **Rejection of Award**. If any of the Parties rejects the Award and pursues a judicial resolution under Section 15.4, and the final judgment is either the same as the Award or more advantageous to any non-rejecting Party, each non-rejecting Party shall be entitled to recover its Post

Mediation Costs from the rejecting Party. If there is more than one rejecting Party, such non-rejecting Party's Post Mediation Costs shall be allocated pro rata among all rejecting Parties.

15.7 **Enforcement of Resolution**. If the Parties agree to resolve any Claim through negotiation or mediation in accordance with Section 15.4 and any Party thereafter fails to abide by the terms of such agreement, or if the Parties agree to accept the Award following arbitration and any Party thereafter fails to comply with such Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 15.4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' and paralegals' fees and court costs.

ARTICLE XVI. MORTGAGEES

16.1 **General.** The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots ("**First Mortgagees**"). The provisions of this Article apply to both this Declaration and the Bylaws, notwithstanding any other provisions contained therein.

16.2 **Notices of Action**. Any First Mortgagee who provides a written request to the WREB or the applicable Association stating its name and address and the street address of the Lot to which its Mortgage relates shall be deemed a First Mortgagee and shall be entitled to timely written notice of:

16.2.1 Any condemnation loss or any casualty loss which affects a material portion of Property or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Mortgagee;

16.2.2 Any delinquency in the payment of assessments or charges by a Lot subject to the Mortgage or such Mortgagee, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within sixty (60) days;

16.2.3 Any lapse, cancellation, or material modification of any insurance policy maintained by the WREB or Association; or

16.2.4 Any proposed action which would require the consent of a specified percentage of Mortgagees.

16.3 **Additional Provisions**. Unless at least sixty-seven (67%) percent of the First Mortgagees of Lots consent, the WREB or an Association shall not:

16.3.1 By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the respective Association owns, directly or indirectly (the granting of servitudes for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

16.3.2 Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot (actions by the respective Board or provisions of any declaration subsequently recorded on any portion of the Property regarding assessments for Service

Areas or other similar areas shall not be subject to this provision where such action or subsequent declaration is otherwise authorized by this Declaration);

16.3.3 By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Area;

16.3.4 Fail to maintain insurance as required by this Declaration; or

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

16.4 **Other Provisions for First Mortgagees**. To the extent not inconsistent with Louisiana law:

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

16.4.2 Any restoration or repair of the Property after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained from the First Mortgagees holding at least fifty-one (51%) percent of the first mortgages on Lots.

16.4.3 Any election to terminate an Association after substantial destruction or a substantial taking in condemnation shall require the approval of the WREB and the First Mortgagees holding at least fifty-one (51%) percent of the first mortgages on Lots which are held by Members of the Association.

16.4.4 An election to terminate an Association under any other circumstances shall require the consent of Members representing at least sixty-seven (67%) percent of the votes and of the WREB, and the approval of the First Mortgagees holding at least sixty-seven (67%) percent of the first mortgages on Lots held by Members of the Association.

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

16.6 **Notice to Association**. Upon request, each Owner shall be obligated to furnish to the WREB or its Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

16.7 **Amendment by Board**. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of its respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.

16.8 **Construction of Article 16**. Nothing contained in this Article shall be construed to reduce the percentage of vote that must otherwise be obtained under the Declaration, Bylaws, or Louisiana law for any of the acts set out in this Article.

ARTICLE XVII. AMENDMENT OF DECLARATION

17.1 **By Declarant**. Until Declarant relinquishes such authority pursuant to this Declaration, Declarant may unilaterally amend this Declaration for any purpose, provided the amendment has no materially adverse effect upon any material rights of any affected Owner. Thereafter, Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination which is in conflict therewith; (ii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots; or (iv) to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. So long as Declarant still owns any portion of the Property it may unilaterally amend this Declaration for any purpose, provided the amendment has no material adverse effect upon any right of any Owner. Rights reserved to Declarant may not be amended without the specific consent of Declarant. Notwithstanding any statement or inference to the contrary in this Declaration, Declarant specifically reserves and has the absolute and unconditional right, to amend this Declaration without the consent or joinder of any party (i) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association or any other generally recognized institution involved in the guarantee or purchase and sale of home loan mortgages, (ii) to conform to the requirements of institutional mortgage lenders or title insurance companies, or (iii) to clarify the Declaration's provisions or correct errors.

17.2 **By Members**. Except as otherwise set forth elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of voting Members representing two-thirds (2/3) of the total votes in the Associations, other than Declarant, and the consent of Declarant, so long as Declarant owns any portion of the Property and/or has an option to subject additional property to this Declaration. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

17.3 **Supplemental Declarations**. Declarant and the Associations shall always have the right to make Supplemental Declarations without the consent of any Members, and the rights of Declarant and the Associations set forth in this Section may not be withdrawn or otherwise modified without the consent of Declarant and the Boards. It is expressly stated that any Supplemental Declaration may, without any approval of the Members, add, modify or otherwise supplement provisions of this Declaration, as originally filed or as same may be subsequently amended, and which will effectively (1) change (whether through increasing, lessening or otherwise) any or all restrictions on use otherwise, which would otherwise be applicable to Additional Property pursuant to a Supplemental Declaration, but such changes shall only relate to and effect the Additional Property pursuant to the Supplemental Declaration, and (2) change (whether through increasing, lessening or otherwise) any or all building restrictions and/or other covenants, which would otherwise be applicable to Additional Property pursuant to a Supplemental Declaration, but such changes shall only relate to and effect the Additional Property pursuant to the Supplemental Declaration. Notwithstanding any inference herein to the contrary, no Supplemental Declaration shall be deemed to have modified any provisions of this Declaration applicable to Lots

included within the property prior to the filing of such Supplemental Declaration unless the Supplemental Declaration expressly states such intention and unless the Supplemental Declaration also qualifies as an amendment to this Declaration pursuant to this Article.

17.4 **Amendment to Design Guidelines**. The Design Review Board shall always have the right to amend and modify the Design Guidelines without the consent of the Members, and the Boards shall always have the right to adopt and file amendments to this Declaration which contain modifications of the Design Guidelines adopted by the Design Review Board. The rights of the Design Review Board set forth in this Section may not be withdrawn or otherwise modified without the consent of the Design Review Board.

17.5 **Effective Date of Amendments**.

17.5.1 **General**. Amendments to this Declaration shall become effective upon recordation in the Conveyance Records, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

17.5.2 **Other**. Notwithstanding any inference herein to the contrary, no amendment or modification of this Declaration shall affect or bear on the construction of buildings within the WEST TRACE DEVELOPMENT to the extent that such buildings have been constructed prior to the adoption of such modifications or other amendments; but such modifications and changes shall be effective with respect to any alterations or other additions to buildings constructed after the date of such amendments or modifications to this Declaration. Amendments and modifications to this Declaration shall be effective with respect to any conduct within the WEST TRACE DEVELOPMENT, or use of Lots, made after the date of such amendment or modification including without limitation thereto any such conduct or use occurring prior to such amendment or modification, and whether or not such conduct or use is continuing at the time of such amendment or modification.

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

17.7 **Effect on Rights or Privileges**. No amendment may, directly or indirectly, remove, revoke, or modify the status, or any right or privilege, of the Joint Committee or Declarant without the written consent of the Joint Committee or Declarant respectively (or the assignee of such right or privilege).

17.8 **Exhibits**. Exhibits attached to this Declaration are incorporated herein by this reference and any amendment to such exhibits shall be governed by this Article, except as otherwise specifically provided in this Declaration. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

17.9 **Duration; Termination**. The terms, conditions and provisions contained in this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by Declarant, the Associations, and all Owners of Property, their respective legal representatives, heirs, successors or assigns for fifty (50) years, and shall be automatically extended for ten successive ten (10) year periods unless an instrument signed by Declarant, so long as Declarant owns any portion of the

Property, and Owners representing Seventy Five (75%) percent of the votes of the Members shall have been recorded agreeing to terminate the Declaration as of a specified date. This Declaration may also be terminated at any time by the consent in writing of all Owners and with the consent of the Declarant, so long as Declarant owns any portion of the Property.

ARTICLE XVIII. DECISION MAKING

18.1 **General**. Most day-to-day decisions about the maintenance of the WEST TRACE DEVELOPMENT and enforcement of the Declaration are the responsibility of the WREB or the Association Boards, acting on their Members' behalf. If an Association is created, and such authority is delegated to it, for those decisions requiring Members' approval, the Community Meeting provides a public opportunity for discussion.

18.2 **Community Meeting**. The order of meeting set forth in this Section shall apply to meetings of each Association.

18.2.1 **Call**. The Community Meeting shall be called annually for the election of directors to serve on the Board, and whenever any action is required by this Declaration to be taken by vote or assent in writing of the Members, as more fully set forth in the Bylaws.

18.2.2 **Quorum.** Voting at a Community Meeting requires presence or proxy of Members representing the percentage of votes established by the Board as necessary to transact business. The Board may revise this percentage from time to time, but in no event shall the required percentage be less than twenty-five (25%) percent nor more than fifty (50%) percent, unless otherwise required by statute. Notwithstanding any inference herein to the contrary, presence of a representative from the WREB at a Community Meeting and a quorum of membership shall be required in order for the Members to effectively vote on any issue brought before the Association's membership.

18.2.3 **Notice**. Notice of any meeting of the Members must be given to the Members at least ten (10) days but not more than thirty (30) days before the meeting, except in an emergency when whatever notice is reasonable, in the sole discretion of the Board, shall be given to the Members.

18.2.4 **Action Without Meeting**. If permitted by the Board, the Members may approve any matter (specifically including the election of directors) by written consent without a meeting, without prior notice and without a vote; provided, however, such consent shall be required to be given in writing and signed by the percentage of the Members of the Association, as required by this Declaration, the Articles or the Bylaws, and by Declarant wherever approval is required. Consents shall be in accordance with the Bylaws and any applicable statutes.

18.3 **Association Board Meetings**. The provisions set forth in this Section shall apply to the Board of Directors of each Association.

18.3.1 **Board Responsibility**. Except as specifically provided in this Article or elsewhere in this Declaration, upon creation of an Association, the Association's Board has been delegated the power, and shall have the authority to act on behalf of the Associations under this Declaration, and to make all decisions necessary for the operation of the Associations. All consents, approvals, elections and other action authorized herein to be taken or given by the Associations shall require only the approval of their Boards, with the exception of those decisions that are expressly reserved to the Members. If a quorum is present at a meeting of a Board, all decisions of the Board shall be made

by a vote of the majority of the directors present at such meeting, with the exception of those cases where a greater vote is required either by law or by the Articles.

18.3.2 **Quorum**. Voting at a Board meeting requires presence of at least one-half (1/2) of the directors, in person or by telephone conference or, if allowed by state law, by proxy. If not prohibited by law, any action required to be taken by vote of the Board may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) by obtaining the written approval of a majority of the directors of the Board.

18.4 **Record Keeping**. The Boards shall keep records of all meetings, both of the Board and of the Members. For each action taken, the record shall state the vote and a description of the action approved, and, where applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Member of the Associations.

18.5 **Notice of Status of Member**. With the exception of those Owners who acquire title to a Lot from Declarant, each Owner shall, upon acquiring title to a Lot, immediately give written notice to the applicable Association at its registered office that he/she/it has acquired ownership of a Lot, which notice shall include a copy of the cash sale, deed or other instrument pursuant to which such Owner acquired title to a Lot. The applicable Board and the Members shall be entitled to rely on its records for the purpose of determining the identity and address of Members, as of the date any notice is to be given, or any decision is to be made. There is no obligation on the part of the Associations to check the records of the Parish at any time for the purpose of determining the identities of the Owners of Lots. Although the Associations may, on occasion check the records of the Parishes for the purpose of identifying Owners of Lots, such actions shall not be considered as creating any obligation on the part of the Associations to check the records of the Parish at any time thereafter for the purpose of determining the identities of the Owners of Lots. The records of the Associations, for the purpose of identifying Members entitled to notice of any meeting of Members, shall consist of (i) the cash sales, deeds or other instruments pursuant to which Declarant initially transferred title to Lots, and (ii) those notices given to the Associations pursuant to the requirements of this Section.

18.6 **Effective Date of Ownership for Purpose of Notice**. Notice of any meeting of the Members shall be considered as having been duly and properly given, if given to those Persons entitled to notice based on the records of the Associations, as of the date any notice is given of such meeting.

ARTICLE XIX. MISCELLANEOUS

19.1 **Terms**. The terms used in this Declaration shall generally be given their natural, commonly accepted definitions, except as otherwise specified. Capitalized terms shall have the meaning ascribed to them within this Declaration.

19.2 **Headings**. The headings in this Declaration have been included solely for reference and will not be considered in the interpretation or construction of this Declaration.

19.3 **Remedies**. The rights and remedies within this Declaration are not exclusive of any other remedies provided herein or by law.

19.4 **Pronouns.** All pronouns and any variations thereof will be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the Person or Persons or object or objects may require.

19.5 **Severability**. If any provision of this Declaration shall be invalid, inoperative or unenforceable as applied in any particular case or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable, to any extent whatever. The invalidity of any one or more phrases, sentences, clauses Articles or Sections contained in this Declaration shall not affect the validity of the remaining portions of this Declaration, or any part thereof.

19.6 **Transfer or Dedication of Common Areas**. The WREB or an Association may dedicate portions of the Common Area to the City or to any other local, state or federal governmental or quasi-governmental entity, subject to such approval as may be required by this Declaration. There shall be no judicial partition of the Common Areas.

19.7 **Condemnation**. If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation), each Owner shall be entitled to written notice. The award made for such taking shall be payable to the WREB or the Association as trustee for all Owners to be disbursed as follows:

19.7.1 If the taking involves a portion of the Common Area on which Improvements have been constructed, the WREB or the applicable Association shall restore or replace such Improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) days after such taking Declarant, so long as Declarant owns any portion of the Property, and Members representing at least seventy-five (75%) percent of the total votes in such Association, shall otherwise agree. Any such construction shall be in accordance with plans approved by its Board.

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

19.8 **Termination Due to Dedication or Condemnation**. The Declaration may be terminated by consent in writing by the Members representing two-thirds (2/3) of the votes in the Associations and by consent of Declarant, so long as Declarant owns any portion of the Property, if the Common Areas have been accepted for dedication or taken by eminent domain by a governmental authority.

[Signatures on the following page.]

This act has been signed in Westlake, Louisiana, on the date first above written in the presence of the undersigned witnesses and notary public.

WITNESSES:

_____
Name:

_____
Name:

THE CITY OF WESTLAKE

By: _____
Name: ROBERT "BOB" HARDEY
Title: MAYOR

WESTLAKE REAL ESTATE BOARD

BY: _____
Name: MICHAEL KERNS
Title: Chairman

_____
NOTARY PUBLIC
NOTARY ID NO.
MY COMMISSION EXPIRES AT DEATH

EXHIBIT "A"

PROPERTY DESCRIPTION FOR
WEST TRACE DEVELOPMENT, A MIXED USE DEVELOPMENT
WESTLAKE, LOUISIANA

EXHIBIT "B"

PLAT FOR WEST TRACE DEVELOPMENT, A MIXED USE DEVELOPMENT
WESTLAKE, LOUISIANA

EXHIBIT "C"

RULES AND REGULATIONS FOR
WEST TRACE DEVELOPMENT, A MIXED USE DEVELOPMENT,
WESTLAKE, LOUISIANA

EXHIBIT "D"

RULES OF ARBITRATION
FOR
WEST TRACE DEVELOPMENT, A MIXED USE DEVELOPMENT

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's desire to submit the Claim to arbitration ("Arbitration Notice").

2. Each Party shall select an arbitrator ("Party Appointed Arbitrator"). The Party Appointed Arbitrators shall, by agreement, select one of two neutral arbitrators ("Neutral(s)") so that the total arbitration panel ("Panel") has an odd number of arbitrators. If any Party fails to appoint a Party Appointed Arbitrator within twenty (20) days from the date of the Arbitration Notice, the remaining arbitrators shall conduct the proceedings, selecting a Neutral in place of any missing Party Appointed Arbitrator. The Neutral arbitrator(s) shall select a chairperson ("Chair").

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice Claimant may notify any Louisiana chapter of The Community Associations Institute which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties ("Arbitrator"), and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration under these Rules in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral shall immediately disclose in writing to all Parties any circumstances likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral after receipt of that Neutral's Bias Disclosure, such Neutral shall be replaced in the same manner in which that Neutral was selected.

5. The Arbitrator or Chair, as the case may be ("Arbitrator") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties.

10. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

11. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

12. There will be no post-hearing briefs.

13. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than fourteen (14) days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

15. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

EXHIBIT "E"

Westlake Real Estate Board
West Trace Development
Tree Removal Policy and Procedures

Purpose: To provide guidance regarding the removal of trees on the National Golf Course that are within one hundred(100) feet of the property owner's property line. This policy is applicable to all property owners and any third parties performing work on such property; including new construction, remodeling or landscaping activities, etc. This policy supersedes all previous / prior version(s).

Background:

- **Situation:** The high quality of The National Golf Course and The West Trace subdivision is grounded in the aesthetically pleasing environment resulting from the trees found on and around the golf course, especially our hardwoods. Trees add significantly to the value of each property as well as to the overall appearance of the course and our community. Concurrently, it is recognized that these trees may also present challenges to each property owner. Challenges include but are not limited to safety, impact on yard maintenance including the growth of grasses, structure maintenance and yard erosion.
- **West Trace Covenants:**
    - No trees located on the National Golf Course shall be cut or removed without the prior written removal of the WREB following the submission of a written request therefore with a description of the desired activity. Generally, the WREB will not approve tree removals without Adequate Cause by the owner of the property.
- **West Trace Tree Removal Policy:**
    - No tree may be removed without the *prior written* approval of the WREB. A property owner who removes a tree(s) without prior written approval, may be subject to penalties and any other legal remedies available to the WREB, National Golf Course or City of Westlake .
    - All requests to remove a tree will be forwarded to the WREB with a project Application and a site plan. The site plan should document the trees to be removed in relationship to any structure, driveways, sidewalks and property lines. These documents should be submitted no less than fifteen (15) calendar days prior to the planned removal date. Marking of trees with colored tape will further facilitate any review.
    - Members of the WREB will coordinate a date and time to review the submitted documentation and inspection of the proposed work with the property owner and designee from the National Golf Course.
    - Please note that a WREB member and a National Golf Course designee will be involved in the decision process. Decisions will be documented in writing.

- A copy of the approved documentation will retained at Westlake City Hall. The property owner may also request they be given a copy of the approved decision. In the event, a request to remove a tree is denied; the property owner will be informed of their right and method to appeal the decision.
- As a general statement, the WREB will work to support approval of those trees which are diseased, pose an immediate or near term safety hazard, reasonably impact property maintenance, if the tree is to be replaced by another, etc., please include all information regarding the work with the project application as it will facilitate any review.
- Property owner shall remove any approved tree(s) at their own expense.
- Each applicant requesting a permit under this policy and procedure shall pay a $500.00 application and replacement fee with the WREB for a single tree removal. Any additional tree removal will be assessed $250.00 per tree. The fees shall be non-refundable.

Westlake Real Estate Board
West Trace Development

PROJECT SUBMISSION FORM

Date: _____
Name: _____
Address: _____
Phone:_____ Lot:_____
Approval is requested for the following project:

Two copies of the drawing showing location, dimensions, distance from property lines, etc. should be submitted with this form. Any other documentation showing proposed project would be helpful to the WREB in making decisions.

By this Agreement, _____, does hereby agree to hold harmless and to indemnify the CITY OF WESTLAKE, the Westlake Real Estate Board, the National Golf Course and/or its employees and insurers for any liability and/or claims, including death, which may arise out of _____'s request to remove certain trees located on property owned by the City of Westlake, which property is adjacent to property owned by _____ and which is located at _____, Westlake, Louisiana 70669.

_____ agrees to accept responsibility for his actions and/or the actions of anyone hired by him while at the property owned by the City of Westlake, located at _____, Westlake, Louisiana, and agrees to hold harmless and indemnify the City of Westlake, Westlake Real Estate Board, the National Golf Course and its employees and insurers for any out-of-pocket expenses or damages relating to any accident that should occur as a result of _____'s removal of trees from the above described property owned by the City of Westlake.

This agreement is effective upon signing.

Owner's Signature _____ Date:_____
(Required)

Contractor's Signature:_____ Date:_____
(Required if Contractor is involved)

Submitted all documents to:
Westlake Real Estate Board
1001 Mulberry Street
Westlake, Louisiana 70669

Please contact the WREB or Design Review Board (DRB) President if you have any questions. The WREB has up to 30 days to respond to your submission. The WREB will provide a written letter of approval, approval with conditions, or rejection of the above project application.

EXHIBIT "F"

Private Golf Cart Ownership Agreement and Usage Rules for the National Golf Club of Louisiana

January 1 through December 31, _____

WHEREAS, by executing this document, Licensee agrees to abide by and comply with the terms of this Agreement with such regulations as are from time to time established by NGCLA;

NOW, THEREFORE, in consideration of mutual covenants herein contained, the parties hereto agree as follows:

Licensing

1.1 Each privately-owned golf cart ("Cart") must be licensed by NGCLA prior to use at NGCLA.

1.2 NGCLA will consider an application for a license only if applicant is living in the West Trace Development and member in good standing.

1.3 NGCLA may revoke/cancel any license, without notice if: (i) Licensee ceases to be a member in good standing of NGCLA, (ii) Licensee violates any provision of this agreement, (iii) the Cart is not maintained in accordance with the standards set forth herein.

1.4 A license is valid only for the Cart for which it is issued. A license is non-transferable to another Cart; however, Licensee may transfer a license to another member of NGCLA, upon purchase, by such member, of the licensed Cart with approval of NGCLA.

1.5 Each licensed Cart shall be identified by numerical decal placed on the Cart by NGCLA at the time of licensing.

Term

2.1 The term of this agreement shall be from date of issuance of license until December 31st of the same year. All following years will convert to the calendar year. The License and Agreement will be renewed on January 1st and will be valid until December 31st of the same year.

2.2 Licensee may terminate this agreement upon thirty (30) days written notice to NGCLA if the Licensee discontinues his membership with NGCLA.

Cart Specifications and Conditions

3.1 Private golf cart owners must maintain the same color, similar make or superior to the fleet of carts leased by NGCLA. When deemed necessary by NGCLA, private golf cart owners may replace their golf cart in conjunction with any replacement of golf carts by NGCLA, so that all golf carts on the course will appear in uniform. In such instance, NGCLA may act as the member's agent in negotiating trade arrangements and will secure the most favorable price possible, utilizing the advantage of a fleet purchase.

3.2 Each Cart must be new or re-conditioned and be approved by NGCLA at the time of licensing, and annually thereafter, and must be maintained in good condition during the term of this agreement. A Cart that is not in good condition and cannot pass the requirements for a licensed Cart or a Cart that has been damaged by an accident and has not been repaired, may not be operated on the golf course. Should a Cart not pass inspection, then the Licensee shall be notified in writing and must stop operating the Cart until repairs to the Cart meet the standards set forth herein.

3.3 A licensed Cart shall be maintained to first-class standards and kept neat and clean with paint in good condition so that its general appearance is in keeping with the quality of NGCLA.

Trail Fees for Private Cart Use on Golf Course

4.1 An annual trail fee for each licensed Cart is payable to "The National Golf Club of Louisiana". Licensee is obligated for payment of the total annual trail fee in advance for each year in the Cart is licensed.

4.2 The trail fee for one year commencing on the date of licensing will be fixed by NGCLA.

4.3 The trail fee may be increased up to a maximum rate of 10 percent (10%) each year.

4.4 The trail fee is considered payment for the Licensee, spouse, and children living in household under the age of 19 or full time students under the age of 24. Any and all guests of the Licensee must pay applicable cart or green fees when riding in Licensee's cart during the course of a round of golf at NGCLA.

4.5 All licensed Carts will be identified by a colored NGCLA decal to be placed on the Cart in a spot designated by NGCLA.

Rules and Regulations

5.1 All operators of a Cart must be sixteen (16) years of age or older and have a valid driver's license.

5.2 Carts will be operated on the golf course only for the purpose of playing golf, observing golf, or traveling to the clubhouse. Travel between residence and clubhouse will be permitted on the cart paths only.

5.3 A Cart may be used by the Licensee, their spouse, and children over the age of sixteen (16) living with the Licensee. No other persons, including Licensee's guests and/or other members of NGCLA may use the Cart unless accompanied by Licensee or authorized by NGCLA**. Applicable green and cart fees must be paid to NGCLA when guest accompany and ride in Licensee cart.**

5.4 Prior to commencing play, Licensee must register in the Pro Shop and identify himself and any guest/member riding in the Cart. Licensee may register by telephoning the Pro Shop. **Applicable green and cart fees must be paid to NGCLA when guest accompany and ride in Licensee cart.**

5.5 Alcohol may not be brought onto the premises under any circumstance. NGCLA reserves the right to inspect any and all private coolers brought onto the course. Violation of this policy can result in, and up to, suspension of privileges and/or expulsion from membership.

5.6 Cart parking is allowed only in the cart staging areas designed by NGCLA. Cart may not be left unattended for more than five (5) hours.

5.7 No more than two (2) persons shall ride in a Cart, and a Cart shall carry no more than two (2) sets of clubs at a time. No pets shall be permitted in a Cart or on the golf course without permission of the General Manager.

5.8 Licensee, their family, and guests will abide by general golf rules and regulations established at the time of play and observe all normal golf etiquette.

5.9 NGCLA shall assume no responsibility for licensed Cart at any time. It is the Licensee's responsibility to keep Cart in good repair (both mechanically and in appearance) and to keep up with their own general maintenance. NGCLA

personnel will be allowed to repair/ maintain Licensee's Cart(s) for a nominal fee set by NGCLA.

5.10 In the event of a breakdown, NGCLA will be notified as soon as possible of the occurrence and the location of the Cart. The Cart must be moved out of the way and removed from the golf course, by the Licensee, within a four (4) hour period. If the Cart is to removed within this time period, NGCLA may, but shall not be obligated to, transport the Cart to the parking lot, with any expense to be reimbursed immediately by Licensee. NGCLA shall not be held liable for any damage to Licensee's Cart caused by towing/transporting. Licensee shall be responsible for removing Cart from NGCLA premises as soon as reasonably possible.

Insurance and Indemnification

6.1 Licensee shall obtain and, at all times hereafter, keep in force Comprehensive General Liability insurance with a combined single limit minimum of $500,000 including bodily injury and property damage protection. Licensee shall submit evidence of insurance coverage satisfactory to NGCLA.

6.2 Licensee does hereby accept and assume all responsibility for liability connected with ownership and/or operation of his Cart. Licensee hereby accepts responsibility for and liability connected with ownership and/or operation of their Cart. Licensee hereby expressly indemnifies and agrees to hold harmless NGCLA, the City of Westlake, the Westlake Real Estate Board, Westlake Golf Management, LLC, and Billy Casper Golf, LLC, their officers and employees, successors and assigns from any and all damages whether direct or consequential, arising from or related to Licensee's ownership and or/operation of the Cart

Violations of Rules and Regulations

7.1 Any person may report any violation of these rules and regulations in writing to NGCLA.

7.2 Should NGCLA find Licensee to be in violation of the rules, they may, in their sole discretion, immediately terminate Licensee's rights under this agreement or assess a fine not to exceed $200 for each violation against the Licensee.

7.3 A Licensee, who is found in violation of the rules and regulations and is fined, shall be required to pay such fine within thirty (30) days of the date in which the letter was mailed to them by NGCLA. If said fine is not paid in full within this thirty (30) day period, NGCLA may terminate Licensee's membership and Cart Agreement.

7.4 Any Licensee who has been terminated may make application for new membership by filling out the proper application for such membership and paying the necessary initiation deposit for such membership, to be reviewed and either

accepted or declined by NGCLA. However, in no event shall said member have any right to license a future private golf cart.

7.5 In the event any violation results in actual physical damage to the course, the damage shall be repaired by the club which shall then bill the member for the repair cost who shall be held responsible for payment. In addition to any other remedies available to NGCLA, non-payment may result in member's expulsion from the National Golf Club of Louisiana.

Private Golf Cart Ownership Agreement Signature Page

Trail Fee:

1. Yearly Trail fee of $590 includes registration fee and is valid until December 31st of the year that the agreement is signed, unless proper cancellation is given to NGCLA. The cost of the trail fee can be prorated at a cost of $60 per month.
2. The trail fee is considered payment for the Licensee, spouse, and children living in household under the age of 19 or full time student under the age of 24.
3. Applicable green and cart fees must be paid to NGCLA when guest accompany and ride in Licensee cart.

Licensee Registrant:

Print Name: _____

Address: _____

City: _____State: _____Zip Code: _____

Daytime Phone number: (___) ____-_____

Email Address: _____

_____ _____
Signature Date

List of Possible Drivers

_____ _____

_____ _____

NGCLA Witness

Print Name: _____

_____ _____

Signature Date

Copy of Proof of Insurance Attached: _____

Staff Initials