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**DECLARATION OF CONDOMINIUM REGIME FOR
ON GOLDEN POND OFFICE CONDOMINIUM**

EXECUTED ON _____, October 31, 2006

AFTER RECORDING RETURN TO:

ALLAN B. ADKINS
ATTORNEY AT LAW
3012 S W. 26TH, SUITE 300
AMARILLO, TEXAS 79109
806-353-7022

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THE STATE OF TEXAS

COUNTY OF RANDALL

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KNOW ALL PERSONS BY THESE PRESENTS:

THAT, WHEREAS On Golden Pond, L.P., a Texas limited partnership, hereinafter referred to as the "**Declarant**", is the Owner in fee simple absolute of that certain land situated in Randall County, Texas, described below, together with all improvements thereon and all easements, rights and appurtenances thereto, and does hereby submit such land and improvements and all easements, rights and appurtenances thereto to a Condominium Regime pursuant to the provisions of Chapter 82, The Uniform Condominium Act of the Texas Property Code (hereinafter called "TUCA") and Amarillo National Bank, being the sole Mortgagee, is joining in the execution hereof to hereby establish and declare an office Condominium Regime covering such Land and improvements, in accordance with the provisions and terms of this Declaration of Condominium Regime for On Golden Pond Office Condominium, a Condominium (the "**Declaration**"):

BASIC PROVISIONS

1. A. NAME OF CONDOMINIUM: On Golden Pond Office Condominium

 B. NAME OF ASSOCIATION: On Golden Pond Office Condominium

 Association, a Texas non-profit corporation
2. COUNTY IN WHICH CONDOMINIUM IS LOCATED: Randall
3. LEGAL DESCRIPTION OF THE REAL PROPERTY INCLUDED IN THE CONDOMINIUM:

 All of Lot 1L, Block 25 of Sleepy Hollow Unit No. 105, and addition to the city of Amarillo in Randall County, Texas, according to the map or plat thereof recorded under Clerk's File No. 2006002993 in the Official Public Records of Randall County, Texas.
4. DESCRIPTION OF UNIT BOUNDARIES AND IDENTIFYING NUMBER:

 See Section 82.052 of TUCA, and Section 1.19, Exhibit "A," and Exhibit "B" below.
5. MAXIMUM NUMBER OF UNITS DECLARANT MAY CREATE:
 - a. The condominium presently contains two buildings under construction (Buildings 1 and 3,

as shown by the attached plats) and Declarant has committed to build two additional Buildings (Buildings 2 and 4, as shown by the attached plats). Said four Buildings contain a total of 20 Units. While the size of these four buildings is not subject to change, the number of Units within each of the four Buildings is subject to change by Declarant, pursuant to Special Rights Reserved by Declarant in Section 14.a of these Basic Provisions. The Percentage or Allocated Interest in these four Buildings will be allocated by dividing the area of each Unit by the total area of all Units in the said four Buildings.

b. In addition to the above, the plats attached thereto show four additional Buildings (Buildings 5, 6, 7 and 8) which Declarant may, but is not obligated to build (designated Need Not Be Built" or "NNBB") on the attached plats. Said four Buildings are initially designed to contain a total of 20 Units. Declarant has reserved, as stated in Section 14.a of these Basic Provisions, the right to alter the number of Units within each of the said Buildings, and to change the size of such Buildings, if built. Percentage or Allocated Interest is not currently assigned to Buildings 5, 6, 7 and 8, but will be assigned, if built, by dividing the area of each unit therein by the total area of all Units in all Buildings, including Buildings 1, 2, 3 and 4, and this Declaration shall be amended to reflect changes in the Allocated Interest of all Units then comprising the Regime.

6. LIMITED COMMON ELEMENTS: The Limited Common Elements do not include the front porches, in the approximate or general vicinity shown on the Plat and/or the Plans, that abut each of the Units, nor the roof overhang above such porches.
7. REAL PROPERTY WHICH MAY BE LATER ALLOCATED AS UNITS OR AS LIMITED COMMON ELEMENTS: The Board may designate parts of the Common Elements, from time to time for use by less than all of the Unit Owners or by non-Owners on a permanent basis or for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Board. Any such designation by the Board shall not be a sale or disposition of such portions of the Common Elements.
8. PERCENTAGE INTEREST ALLOCATED TO EACH UNIT: See Exhibit "C" attached hereto and Sections 1.13 and 2.3, below. Initial allocation includes only units in Buildings 1 and 3. See Paragraph 5., above.
9. RESTRICTIONS ON USE, OCCUPANCY OR ALIENATION OF UNITS: The Regime is an office condominium. Restrictions on use, occupancy and alienation of Units are set forth in Article Five of the Declaration. Additional restrictions are set forth in the documents listed or described in Exhibit "D" attached hereto.
10. DESCRIPTION OF AND RECORDING DATA FOR RECORDED EASEMENTS, AND LICENSES APPURTENANT TO OR INCLUDED IN THE CONDOMINIUM OR TO WHICH ANY PORTION OF THE CONDOMINIUM IS OR MAY BECOME SUBJECT BY RESERVATION IN THIS DECLARATION: See Exhibit "D" attached hereto and incorporated herein for all purposes.
11. METHODS FOR AMENDING THE DECLARATION: See Section 2.4 and Article Ten of the Declaration, as well as TUCa Sections 82.061 and 82.062.

12. PLAT AND PLAN: See Exhibits "A" and "B".
13. ASSOCIATION'S OBLIGATIONS TO REBUILD OR REPAIR FOLLOWING A CASUALTY OR OTHER DISPOSITION OF CASUALTY INSURANCE PROCEEDS: See Article Eight, below, which incorporates by reference Section 82.111 (i) of TUCA.

14. a. SPECIAL RIGHTS RESERVED BY DECLARANT:

- (i) Signs. See Section 5.4 regarding signs, below.
- (ii) Amendments. See Section 10.1 regarding Amendments to the Declaration.
- (iii) Sales Office/Model Units. See Section 82.065 of TUCA and Section 5.1 (c) regarding use of a Unit as an office and use of up to two (2) Units as model sales Units. The model sales Units may be any of the forty (40) Units within the Regime.
- (iv) The Plan consists of a total of forty (40) units in eight (8) Buildings. All twenty (20) Units in Buildings 1, 2, 3 and 4, must be built. Any or all of Buildings 5, 6, 7 and 8, may be built, at Declarant's option. As presently designed, Buildings 1, 2, 3 and 4, will contain a total of twenty (20) Units. Declarant may file an amendment to this Declaration at any time to declare that all or any of said Buildings 5, 6, 7 and 8, must be built.

Declarant reserves the right to vary the location of common walls between any Units to increase or decrease the size of any one or more Units within each of the eight (8) Buildings, as well as decrease the number of Units within each of the eight (8) Buildings. Declarant further reserves the right to make minor design changes to Buildings and Unit floor plans, so long as all Units and Buildings are of compatible quality and design with all other Buildings and Units within the Property.

The Association may assign such Common Elements as Limited Common Element areas pursuant to the provisions of Section 82.058 of TUCA by making such an allocation in a recorded amendment to this Declaration. Any such amendment must describe any new Limited Common Elements created and designate on the new Plat or Plans the Unit to which each such new Limited Common Element is allocated.

- (v) Changes in the Types of Buildings, Units and Floor Plans Initially Assigned to Each Unit. The Plans attached as an exhibit hereto show, among other things, the two (2) types of Buildings that are approved for use in constructing the units. The Plan initially assigns a specific building type to each Unit. The Declarant reserves the right to make minor modifications, as deemed appropriate, for the site for each such Unit, as determined by the Declarant in the Declarant's sole discretion.
- (vi) Declarant reserves the right to withdraw all or any part of the real Property

containing Buildings 5, 6, 7 and 8, from the condominium regifiling of record in Randall County, Texas an amendment to this Declaration. Said withdrawn lands may include all or any part of the East One-Half of the Property. Such withdrawal may not be made, as to lands containing Units, and Common Elements and Limited Common Elements supporting such Units, after a building is completed, and no such withdrawal may include lands which are Common Elements or Limited Common Elements necessary to support Units already built. Should any such withdrawal be made, Declarant must accomplish same in a manner that maintains Common Elements and Limited Common Elements within the regime to support existing Units.

b. TIME LIMITS BY WHICH DECLARANT MUST EXERCISE RIGHTS:

Unless sooner terminated by a recorded instrument signed by the Declarant, the **Declarant Control Period** (herein so called) and the time by which the Declarant must exercise or lose all rights reserved by the Declarant (other than pursuant to the Power of Attorney as provided in Section 13.10 below) is the sooner to occur of:

- (i) the 120th day after the conveyance of 75% of the Units which must be built (including any optional Units that are converted to Units that "Must Be Built" as provided above) to a Unit Owner other than Declarant; and
- (ii) the third anniversary date of the sale of the first Unit to a Unit Owner other than the Declarant.

c. TRANSFER OF SPECIAL DECLARANT RIGHTS. The Special Declarant's Rights reserved in this Basic Provision may be transferred only as provided in Section 82.104 of TUCA.

ARTICLE ONE

DEFINITIONS

As used in this Declaration, the term "**Declaration**" shall mean this Declaration as the same may be amended from time to time pursuant to the procedures set forth herein or allowed by applicable law. Terms set forth below shall have the following meanings, and capitalized terms not otherwise defined herein or in the Plats or Plans shall have the meanings specified or used in the TUCA.

1.1 "**Association**" shall mean On Golden Pond Office Condominium Association, a Texas non-profit corporation, the Members of which shall be the Owners of Units within the Regime. The term "Association" shall have the same meaning as the term "**Unit Owners Association**" in TUCA.

1.2 "**Board**" shall mean the Board of Directors of the Association.

1.3 "**Buildings**" shall mean the eight (8) structures containing office units ("Units")

1.4 **"Bylaws"** shall mean the Bylaws of the Association.

1.5 **"Common Elements"** shall mean all portions of the Condominium Regime other than the Units. Without limiting in any way the generality of the foregoing, the Common Elements shall include those items defined as **"General Common Elements"** or **"Limited Common Elements"** in TUCA.

1.6 **"Common Expense Liability"** shall mean the liability for assessments levied on each Unit for Common Expenses, including without limitation, management and operation of the Regime and for repairing, maintaining, insuring, and operating the portions of the Common Elements (including reserves for replacements or other expenses or liabilities) for which the Association, as opposed to a Unit Owner, has the exclusive maintenance and repair obligation.

1.7 **"Land"** shall mean all of the real property described in 3., above.

1.8 **"Limited Common Elements"** shall mean those portions of the Land, Buildings and Units reserved for the exclusive use of one or more Owners to the exclusion of other Owners. The heating, venting and air conditioning units and ducts, conduits and electrical lines, hot water heaters and other exterior systems, and equipment which serve only one Unit shall, upon construction, be Limited Common Elements appurtenant to that Unit.

1.9 **"Member"** shall mean a member of the Association, as more particularly described in Article Three, Section 3.4 hereof.

1.10 **"Mortgage"** shall mean a lien evidenced by a deed of trust granted by an Owner in and to, or against, a Unit to secure the repayment of a purchase money or property improvement loan or to pay taxes or assessments secured by actual or inchoate liens against such Unit, and duly filed for record in the Office of the County Clerk of Randall County, Texas. A First Mortgage is a Mortgage held by a First Mortgagee which encumbers a given Unit and which is first and superior to all other Mortgages on such Unit.

1.11 **"Mortgagee"** shall mean the person who holds a Mortgage as security for repayment of a debt. A **"First Mortgagee"** is a Mortgagee whose Mortgage is a First Mortgage. Amarillo National Bank is Declarant's First Mortgagee and, at the time of the recording of the Declaration, holds a First Mortgage on all of the Units in the west one-half of the Regime.

1.12 **"Owner"** shall mean any person, corporation, or other entity, including Declarant, which owns, of record, title to a Unit in the west one-half of the Regime.

1.13 **"Percentage Interest"** is synonymous with **"Allocated Interest"** as defined in TUCA and shall mean the undivided interest in and to the Common Elements, Common Expense liability and votes in the Association allocated to each Unit. The Percentage Interest associated with each Unit as shown on the Plat attached hereto shall be as set forth in Exhibit "C".

1.14 **"Plat"** shall mean the survey attached hereto as Exhibit "A".

1.15 **"Plan"** shall mean the dimensional drawings attached hereto as Exhibit "B" which

horizontally and vertically identify or describe the Units and Limited Common Elements that are contained in the Buildings.

1.16 "Regime" shall mean the Land, the Buildings, the Units, the Common Elements and the Limited Common Elements comprising the office condominium project hereby established.

1.17 "Replacement Reserve Fund" shall mean the reserve fund established pursuant to Section 4.2 hereof for maintenance, repairs, and replacements to Common Elements and other special purposes permitted by the provisions of this Declaration.

1.18 "Rules and Regulations" shall mean the On Golden Pond Office Condominium Association Regime Community Rules adopted by the Association concerning the management and administration of the Regime for the use and enjoyment of the Owners. The Rules and Regulations may be amended from time to time by the Association (without amending this Declaration) pursuant to the procedures set forth in the Bylaws. **The Rules and Regulations are in addition to and not in lieu of the restrictions and limitations imposed by the instruments recorded in the Plat Records, Real Property Records or Official Public Records of Randall County, Texas.**

1.19 "Unit" shall mean the physical portion of each office in the Regime designated for separate ownership or occupancy as a Unit as shown on Exhibit "B". The boundaries of the Units shall be the walls, floors and ceilings of the Units and shall otherwise be as set forth in Section 82.052 of TUCA.

ARTICLE TWO

ESTATES

2.1 Divisions into Separate Estates. The Land and Buildings, and the improvements located thereon and the easements, rights and appurtenances thereto are hereby divided into condominium estates consisting of separate Units, together with the exclusive rights to use the Limited Common Elements appurtenant thereto, the non-exclusive right to use the other Common Elements and the Percentage Interest in and to the Common Elements associated with and appurtenant to each Unit as set forth and designated in Exhibits "A" and "B" attached hereto. The Common Elements shall be owned in common by all Owners of the Units, in proportion to their Percentage Interests, as set forth in Exhibit "C". Each Owner of a Unit having or hereafter acquiring a Limited Common Element assigned only to such Unit, or on a subsequent amendment to the Declaration, shall be entitled to exclusive ownership and possession of his Unit and exclusive use and possession of the Limited Common Elements appurtenant thereto. In cases, if any, where a Limited Common Element is assigned to more than one Unit, the Owners of those Units shall be entitled to exclusive ownership and possession of their respective Units and shall be entitled, in common with all of the other Units to which such Limited Common Elements are assigned, and exclusive of all other Units in the Regime, to use and possess such Limited Common Elements. Each Unit Owner, during his or her period of ownership of a Unit has an unrestricted right of ingress and egress to his or her Unit. Such right of ingress and egress shall be perpetual and shall run with and be appurtenant to each Unit.

2.2 Description; Conveyance. Each Unit and the interest in the Common Elements and Limited Common Elements appurtenant thereto shall be inseparable and may be conveyed or encumbered only as a Unit. A conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an individual interest in the Common Elements separate and apart from a simultaneous transfer of the Unit shall be void. Every deed, lease, Mortgage, deed of trust or other instrument shall legally describe a Unit and its Percentage Interest in and to the Common Elements appurtenant thereto by reference to the name of the condominium, county in which it is located, the Plat and Plan attached hereto as Exhibits "A" and "B", including its identifying Unit and Building number, followed by the words, "On Golden Pond Office Condominium, a Condominium", and a reference (including the recording data) to this recorded Declaration, and any amendments hereto. The fractional Percentage Interest in the Common Elements may (but is not required to be included) in such legal description. Every such description shall be sufficient for all purposes to convey, transfer, encumber or otherwise affect the Unit and its fractional Percentage Interest in the appurtenant Common Elements. Every Owner shall promptly cause to be duly recorded in the Official Public Records of the County Clerk for Randall County, Texas, the deed, or other conveyance to him or her of his or her Unit, or other evidence of his or her title thereto, and file such evidence of his or her title with the Board of Directors (through the manager, if one is employed) and the Secretary shall maintain such information in the record of ownership of the Association.

2.3 Percentage Interest; Dimensions. The Percentage Interests as set forth in Exhibit "C" are assigned to each Unit according to the floor area of each Unit divided by the total floor area of all Units in the Condominium Regime.

Each purchaser and Owner of a Unit hereby agrees that the dimensions of each Unit and the area of the appurtenant General and Limited Common Elements as set out in Exhibits "A" and "B" are approximate but are agreed to as absolute numbers for purposes of this Declaration, and that neither Declarant nor the architects, engineers, lawyers or surveyors who have prepared or assisted in preparing such exhibits ("**Declarant's Agents**") have warranted, represented or guaranteed that any Unit or appurtenant General or Limited Common Element contains the exact area, square footage or dimensions shown in the Exhibits. Each purchaser of a Unit, each Owner and each Mortgagee waives any claim or demand which he, she or it might have against Declarant, Declarant's Agents or any other person on account of any difference, shortage or discrepancy between the Unit or appurtenant General or Limited Common Elements as actually existing and as it is shown in Exhibits "A" and "B".

2.4 Alteration of Boundaries by Owner of a Building. The following Paragraph is subject entirely to compliance with TUCA and is not intended to limit or restrict the Special Rights Reserved by the Declarant in Basic Provision 14 (a) above. If one person, firm or entity is the Owner of an unbuilt Building and if the Association consents to the alteration of the Building that is proposed for construction as such Building and if such Owner also complies with the procedures set forth in Sections 82.058, 82.061 and 82.062 of TUCA, such Owner shall have the right to make those changes to such Building. In any of such events, the Association, at the expense of the Owner who is involved, shall evidence the approved changes in the Unit by causing an appropriate instrument of Amendment to this Declaration to be prepared, approved, executed and recorded in accordance with Section 82.062 of TUCA. The instrument of amendment shall show the boundaries between those Units which are being ~~relocated~~ and any changes being

revised Plat and Plan of any Unit so modified in relation to the original Plat and Plan of the Unit and the Common Area and appurtenant Limited Common Elements including the contiguous boundary of the Land, certified as to accuracy by a registered architect or engineer acceptable to the Association. Such plats and floor plans as may be necessary to show the altered boundaries of the Unit involved shall be certified as to accuracy by a registered architect or engineer. The conditions precedent to any amendment pursuant to this Paragraph 2.4 shall be in addition to and not in lieu of the conditions precedent set forth in Section 82.061 or 82.062 of TUCA. For voting purposes, allocation of undivided interest in the Common Elements and percentage of liability for Common Expenses, shall, for such revised Units, be amended on the square footage basis provided herein. Any Amendment recorded in accordance with the terms hereof shall be conclusive in favor of all the persons who rely thereon in good faith. From and after recordation of any Amendment in accordance with the provisions hereof, the changes stated in the Amendment shall be in full force and effect and shall be subject to the provisions of this Declaration, and the jurisdiction of the Association pursuant to the terms of this Declaration, the Bylaws and the Articles of Incorporation of the Association. No Owner may alter any Unit unless the affected Mortgagee joins in a written consent in recordable form to so modify such Unit.

2.5 Subdivision of Units. Units may not be subdivided, except by Declarant pursuant to Special Rights Reserved by Declarant in Basic Provision 14.a. above.

ARTICLE THREE

MANAGEMENT AND OPERATION OF THE REGIME

3.1 Authority to Manage. The affairs of the Condominium and Condominium Regime shall be administered by the Association. The Association shall act by and through its Board of Directors. The Association shall be governed by its Bylaws, as amended from time to time.

3.2 Powers.

- a. The Association shall have all of the powers, authority and duties permitted pursuant to TUCA, which are necessary and proper to manage the business and affairs of the Condominium.
- b. Association funds needed for mandatory reserve accounts and to pay known expenses may not be assigned or pledged. The Association may otherwise assign or pledge its future income, including its rights to receive Common Expense assessments, only by the affirmative vote of Owners of Units to which at least 51 percent of the votes in the Association are allocated, at a meeting called for that purpose. Such assignment may be for the following purposes only:
 - (i) to cover shortfalls in reconstruction costs following a casualty or condemnation;
 - (ii) to cover shortfalls in operating revenue due to defaults in payment by Owners.

- (iii) to cover the cost of enforcing the Declaration, Bylaws, or Community Rules; and
 - (iv) to provide for the indemnification of any persons who may be indemnified by the Association.
- c. The Association, acting through its Board of Directors, may:
 - (i) bring an action to evict a tenant of a Unit Owner for the tenant's violation of the Declaration, Bylaws, or Rules of the Association;
 - (ii) bring an action to evict a tenant of a Unit Owner who fails to pay the Association for any cost it is otherwise required under this Declaration to bear to effect repairs to Common Elements which are substantially damaged by the Owner's tenant; or
 - (iii) collect rents from a tenant of a Unit Owner, but only if such Unit Owner is at least 60 days delinquent in the payment of any amount due to the Association.

3.3 Declarant Control. The Declarant shall have all the powers reserved in Section 82.103(c) of TUCA during the Declarant Control Period as defined in Basic Provision Section 14.b. to appoint and remove officers and members of the Board.

3.4 Membership in Association. Each Owner (and only an Owner) shall be a Member of the Association so long as he or she shall be an Owner and such membership shall automatically terminate when he or she ceases to be an Owner. Upon the transfer of ownership of a Unit, the new Owner succeeding to such ownership shall likewise succeed to membership in the Association. The Bylaws contain other controlling provisions regarding the rights, duties and obligations of the Members of the Association. As to any unsold Units in the Regime as of the time that the Declarant turns over the control of the Association to the Owners other than the Declarant, the Declarant shall enjoy the same rights and assume the same duties of an Owner as they relate to each individual unsold Unit in the Regime.

3.5 Voting of Members. Each Owner shall be entitled to the same number of votes per Unit owned by each Owner, as corresponds to the Percentage Interest in the Common Elements allocated to such Unit.

3.6 Notices. Any notice or demand permitted or required to be given to a member of the Board or to an Owner may be delivered personally, by mail or by placing such notice in the mail distribution facility of each Owner if such facilities are on the Condominium grounds or to the last known address of the Owner or Board member as shown on the records of the Association. Deliveries made in person or by deposit in said mail distribution facility shall be immediately effective. If delivery is made by mail or facsimile, it shall be deemed to have been delivered on the day of transmission via facsimile (with a printed transmission confirmation) or on the day after

deposit in the U.S. Mail, postage prepaid, addressed to an Owner at his or her Unit or to such other address as the Owner may have given in writing to the Secretary of the Association for the purpose of service of notices, as applicable. Any address for purposes of notice may be changed from time to time by notice in writing to the President or Secretary of the Association.

ARTICLE FOUR

COMMON EXPENSE CHARGES

4.1 Liability. Commencing on the date that each Unit is sold to a person other than the Declarant, each Owner shall contribute cash to cover a portion of the annual Common Expense charges, plus initial working capital equal to two (2) months of estimated Common Expense charges for such Unit. The Common Expense charge shall include the establishment and maintenance of a Replacement Reserve Fund to cover contingencies and repairs, replacements and betterments to the Common Elements of the Regime. The contribution of such additional 2 months of Common Expense charges as initial working capital shall not be considered an advance payment of regular condominium assessments. Such working capital funds must be transferred by the Declarant to the Association when control of the Association is transferred to the Owners. The Declarant may not use any portion of the working capital funds to defray any of the Declarant's expenses, reserve contributions or construction costs or to make up any budget deficits while the Declarant controls the Association. If, on the date that the Declarant turns control over to the Association, working capital funds have not been theretofore deposited by the Declarant or any Owner for two months of estimated Common Expense charges for each fully assessable Unit in the Regime that "Must Be Built" and which is then owned by the Declarant or such Owner, respectively, then the Declarant or such Owner, as applicable, shall contribute to the working capital fund an amount equal to two months of estimated common expense charges for all Units then owned by it or him or her, as applicable, for which no such working capital contribution has theretofore been made. The contribution of each Owner, including the Declarant as an Owner, shall be in proportion to such Owner's Percentage Interest as may then be in effect at the time such contribution is due. During the Declarant Control Period, the Declarant shall contribute its share of cash to cover the Common Expense charges as provided in Section 4.2, below.

Before the Association may file a notice of unpaid assessment lien against any Owner for the failure to maintain, repair or replace his or her Unit or any of its appurtenant Limited Common Elements which he or she is required to maintain, the Association must first deliver written notice to the Owner advising such Owner that unless payment is received by the Association within 10 days of the date of the notice, the Association will file such notice of unpaid assessment lien.

Before the Association may impose a charge or assessment against any Owner for property damage for which he or she is liable or for any fines for violating the Declaration, Bylaws or Community Rules, the Association must first comply with Section 82.102 (d) of TUCA. No Owner is or shall be exempt from such obligation to so contribute by waiver of use of the Common Elements or any Limited Common Elements or because of any restriction of such uses in accordance herewith, or with the Rules and Regulations. Each Owner shall be personally responsible for his or her portion of all Common Expense Charges, enforcement fees, interest and other charges which accrue during the period of such Owner's membership in the Association.

Any Common Expense (as opposed to an expense which is required to be borne solely by a Unit Owner) associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed equally against the Units to which the Limited Common Element is assigned.

4.2 Monthly Assessments. As more fully provided in the Bylaws, the Board shall establish a budget for the operation and maintenance, repair and replacement of the Regime, including a reasonable allowance for contingencies and shall establish a reasonable replacement reserve fund for maintenance, repairs, and replacements to Common Elements (other than those portions which are included within the boundaries of a Unit) and for estimated costs to effect the self help remedy of maintaining or repairing any Limited Common Element which the Owners are required to maintain and which are not maintained in keeping with the upscale character of the Regime. The Association may accumulate funds for an unspecified period to provide for any anticipated expense of the Condominium as well as a reasonable amount for contingencies.

Such initial budget, and those adopted thereafter, may, but need not, provide for ad valorem tax expenses of the Regime if the taxing authorities having jurisdiction have not then separately assessed and valued individual Units. Because the newly completed Units in the Condominium Regime will not be separately rendered for ad valorem property taxes in 2006, the initial budget shall show the annualized amount for each Unit's estimated pro rata share of the ad valorem taxes for the Land and any common area improvements, and the Declarant shall pay the taxes assessed or assessable against the portion of the Common Elements over which the Declarant has reserved development rights (for so long as Declarant has not relinquished or forfeited such rights). An estimate may, but need not be included, in such budget for ad valorem taxes on the Units. If the budget does not include any projected tax assessment for the improvements that will comprise the Units, then each Owner will be responsible for paying his or her tax on the improvements which comprise his or her Unit during such year or years that the improvements are not separately rendered. In each year that any Units are not separately assessed, each Unit Owner of a Unit that is not so separately assessed shall adjust with the Declarant at the time of the closing of his or her Unit, any tax that is assessed to the entire Regime and attributable in part to any improvements comprising such Owner's Unit. For purposes of such adjustment, it shall be presumed that any assessment on the entire Regime is attributable to all Units that are completed in the Regime during that calendar year. The ad valorem property taxes on any Unit which is not separately rendered by the taxing authority in a calendar year shall be calculated (for purposes of adjustment between the Declarant and the Unit Owner) based on a fraction, the numerator of which will be sales price of the Unit, and the denominator shall be the total fair market value of all improvements built for the prorated portion of the year in which the same are completed.

After the budget is adopted by the Board, the Board shall determine the Common Expense Charge required for the Condominium Regime and the portion thereof allocable to each fully assessable Unit that "Must Be Built", as construction of such Units are completed, and each Owner shall be obligated to pay quarterly, or monthly, in advance, as the Board shall determine from time to time, on the first day of each month (or quarter, as applicable) one-twelfth (1/12) (or one fourth (1/4) as applicable) of the portion of the Common Expense Charge so allocated to such Owner's Unit. The Common Expense shall be allocated among the fully assessable Units that "Must Be Built", as such Units are completed, and the Owners of those Units shall be obligated pursuant to this Declaration to pay the same according to the respective Percentage

Interests as then allocated to such Owner's Unit or Units. During the Declarant Control Period, the Declarant shall pay assessments for Common Expenses allocable to the fully assessable Units that it owns and shall pay its allocable share of the expenses of the Condominium in accordance with Section 82.112 of TUCA.

4.3 Special Assessments. If the Board, at any time, or from time to time, determines that the Common Expense assessed for any period is insufficient to provide for the continued operation of the Regime, timely payment of its bills, and the maintenance, repair or replacement of the Common Elements for which the Association is responsible, then the Board shall have the authority to levy such Special Assessments as it shall deem necessary to provide for such continued maintenance, repair or replacement and operation. Without limiting the generality of the foregoing, such Special Assessment may be assessed because of casualty, condemnation, or other loss to any part of the Common Elements for which the Association is responsible, or to make up for any deficiencies caused by nonpayment of Common Expense Charges by Owners or expenditures made to effect the Association's self help right to remedy any Limited Common Elements not maintained in accordance with the upscale character of the Regime. No Special Assessment which (together with all prior Special Assessments levied in the same calendar year) would exceed 25% of the current year's annual Common Expense charges may be made until the same is approved by Members holding at least 51 percent of the eligible votes in the Association. All Special Assessments shall be payable (and the payment thereof may be enforced) in the manner herein specified for the payment of the Common Expense charges.

4.4 Payment of Charges and Assessments; Collection; Enforcement; Transfer Fee; Right to Terminate Utility Service; Owner's Right of Redemption. One-twelfth (1/12) of the portion of the Annual Common Expense Charge assessed against each Owner shall be due and payable in advance on the first day of each month during the year for which the Common Expense Charge in question has been assessed, provided however if the Board elects to collect such sums on a quarter annual basis as provided in Section 4.2 above, then such payment shall be due in quarter annual installments on the same day that the regular assessments are due pursuant to Section 4.2, above. Any such amount not paid by the fifth (5th) day of the month in which the same is due shall be deemed delinquent and shall bear interest at the rate established by the Board from time to time, and until the Board modifies such rate, the rate shall be the lesser of 18% per annum or the maximum lawful rate then in effect, and interest at such rate shall accrue from the date originally due until paid. In addition, upon the occurrence of any such delinquency, the Association shall have the right and option (a) to impose a late fee or late charge in such amount as the Board, from time to time, may reasonably elect, and until the Board so elects, the late fee or late charge shall be \$25.00 per late payment, and (b) to accelerate the entire amount of assessments and charges which are unpaid for the remainder of the current calendar year.

In connection with the sale of a Unit by a person other than the Declarant, the Association shall have the right and option to impose a transfer charge in such amount as the Board, from time to time, may reasonably elect, and until the Board so elects the transfer charge shall be \$75.00 per sale. The transfer fee shall be used to defray the actual costs that the Association or the Association Manager, if any, incurs in connection with issuance of Resale Certificates, changes of Association records and deliveries of required notices and is in addition to, and not in lieu of, the costs that may be imposed under Section 4.6 for issuing Statements of Indebtedness.

In order to secure payment of the Common Expense Charge as well as Special

Assessments, interest, late fees, enforcement costs and other charges due hereunder, whether paid by the Association or required hereunder to be paid in whole or in part by an Owner, each Owner by his or her acceptance of a deed to a Unit, hereby vests in the Board of Directors of the Association or its agents the right and power to bring all appropriate actions against such Owner personally for the collection of such Common Expense Charges, Special Assessments, interest, late fees, enforcement costs and other charges (included those which are accelerated as hereinabove provided) as a debt and hereby grants said Board a lien for such Common Expense Charges, Special Assessments, interest, late fees, enforcement costs and other charges for which Owner is responsible. Said lien shall be enforceable by the Board of Directors of the Association or its agents through all appropriate methods available for the enforcement of such liens, including without limitation, non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code (as amended from time to time), and the methods provided in Section 81.113 of TUCA, as amended from time to time, and such Owners hereby expressly grant to the Board of Directors of the Association a power of sale in connection with said lien. THE ASSOCIATION MAY NOT, HOWEVER, FORECLOSE A LIEN FOR ASSESSMENTS CONSISTING SOLELY OF FINES. Said Board may designate a trustee in writing from time to time to post or caused to be posted the required notices and to conduct such foreclosure sale. The trustee may be changed at any time and from time to time by an instrument in writing and signed by the President or a Vice President of the Association and attested by the Secretary or any Assistant Secretary of the Association and filed for record in the Official Public Records of Randall County. The lien provided for in this Section shall be in favor of the Association for the common benefit of all Owners. The lien herein granted shall be subordinate in all respects to any First Mortgage predating the charge in question (as evidenced by the recording date of a notice of unpaid assessments in the Official Public Records of Randall County, Texas) and any Mortgagee whose First Mortgage so predates the date of the charge in question and who acquires title to a Unit, whether pursuant to the remedies provided for in its First Mortgage, or procedures in lieu thereof, shall not be liable for the unpaid portion of the Common Expense Charge attributable to the Unit in question that arose prior to such acquisition. In addition to the lien hereby retained, in the event of nonpayment by any Owner of such Owner's portion of the Common Expense Charge or failure of an Owner to pay the maintenance, repair or replacement cost or any Special Assessments for which such Owner is responsible, and at least twelve (12) days have lapsed since such payment was due, the Association may, upon five (5) days prior written notice (which may run concurrently with such 12 day period) thereof to such nonpaying Owner, in addition to all other rights and remedies available at law, equity or otherwise, terminate any utility or cable service provided at the cost of the Association and not paid for directly by an Owner or occupant to the utility provider in such manner as the Association deems fit or appropriate. [Section 291.131 Texas Water Commission Rules on Allocating Non-submetered Master-metered Utilities (Water), Texas Public Utility Regulations 23.50 and 23.51] Such notice shall consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice shall include the office or street address where the Owner or tenant may go during normal working hours to make arrangements for payment of the bill and for reconnection of service. Utility or cable service shall not be disconnected on a day or immediately preceding a day when the personnel of the Condominium are not available for the purpose of collection and reconnecting service. If the Association incurs any legal expense, including attorney's fees, to enforce any rights of the Association against any Owner, such Owner shall be liable to the Association for such expenses and the Association may recover the same in the same manner as set forth above respecting assessments. Except as otherwise

provided above as to First Mortgagees, or by applicable law, no sale or transfer shall relieve any Owner, Unit or any new Owner thereof from liability for the Common Expense Charge or Special Assessments or maintenance, repair and replacement obligations thereafter becoming due or from the lien in respect thereof. If an Owner conveys his or her Unit and assessments against the Unit are unpaid or any required maintenance, repairs or replacements for which such Owner is responsible have not been accomplished or such Owner owes other sums or fees under this Declaration to the Association, the Owner shall pay the past due assessment and shall pay for the cost of such required maintenance, repairs or replacements and other sums due the Association out of the sales price of the Unit or if the contract of sale so provides, the purchaser shall pay such assessments and maintenance, repair and replacement costs, but in either case, such assessments and maintenance, repair and replacement costs shall be paid in preference to any other charges against the Unit other than a first lien Mortgage or assessment liens and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Unit which are due and unpaid and the selling Owner shall continue to be personally liable therefor until the same are fully paid, regardless of whether the purchaser also assumes the obligation to pay the same. The Owner of a Unit purchased by the Association at a foreclosure sale for unpaid assessment liens may redeem the Unit as provided in Section 82.113(g) of TUCOA. Such right of redemption is personal to such Owner and may not be transferred or assigned. Up until the time of the non-judicial foreclosure sale, a Unit Owner may avoid a foreclosure by paying all amounts due to the Association, including late fees, interest, legal fees and other enforcement costs.

4.5 Association Account. The Common Expense charges collected by the Association shall be paid into the Association account to be held in trust for the use and benefit, directly or indirectly, of the Regime. Subject to the limitation in Section 82.112 of TUCOA, such funds may be expended by the Board, for the purposes set forth hereinabove and generally to promote the health, benefit, and welfare of the Regime and the Owners.

4.6 Statement of Indebtedness. Upon written request of any Owner or Mortgagee or prospective Owner of a Unit, and upon payment to the Association of a fee in such amount as the Board, from time to time, may reasonably elect, and until the Board so elects the fee shall be Twenty Five Dollars (\$25.00), the Association shall issue a written statement setting forth the unpaid Common Expense charges and other charges, if any, with respect to the subject Unit, the amount and due date of the then current monthly assessment, and any credit for advance payments of prepaid items. Such statement shall conclusively establish the facts recited therein as to all persons who rely thereon in good faith. The consequence of not so requesting such Statement of Indebtedness shall be that the prospective Owner of a Unit shall, if he or she becomes the Owner of such Unit, be deemed to have agreed to assume the obligation of his or her grantor of the Unit so sold and shall be jointly and severally liable with his or her grantor for all unpaid Common Expense Charges, Special Assessments and for the failure of an Owner to pay the maintenance, repair, replacement, interest, late fees, enforcement charges and other costs for which such Owner is responsible under this Declaration, the Bylaws, or the Rules and Regulations up to the time of the grant or conveyance. If a statement of indebtedness is not given within ten (10) days after a written request therefor, and if notice of such unpaid charge is not then recorded in the Official Public Records of Randall County, Texas then (a) any lien for unpaid Common Expense Charges or other charge coming due prior to the date of such request or for the failure of an Owner to pay the maintenance, repair, replacement and other costs for which such Owner is responsible under this Declaration shall be subordinate to the lien of any Mortgagee requesting such Statement who is without actual knowledge, after due inquiry of its borrower, of such

Owner's unpaid assessment or charge, and (b) any purchaser from the Owner of such Unit who has requested such Statement in writing and who has no actual knowledge of such charges after due inquiry of the Seller, shall acquire the Unit free of any lien for such charges. Except as provided in the immediately preceding sentence, the grantee of any Unit shall be deemed to have agreed to assume the obligations of the grantor of the Unit so sold and shall be jointly and severally liable with his or her grantor for all unpaid Common Expense Charges, Special Assessments and for the failure of an Owner to pay the maintenance, repair, replacement, interest, late fees, enforcement charges and other costs for which such Owner is responsible under this Declaration, the Bylaws, or the Rules and Regulations up to the time of the grant or conveyance.

4.7 Collection by Mortgagee. It shall be permissible for any Mortgagee to collect the Common Expense Charge from its Owner/Mortgagor, provided that same is held by such Mortgagee in trust and is remitted to the Association on the monthly due dates, or, as applicable, quarterly due dates.

ARTICLE FIVE

GENERAL PROVISIONS RELATING TO USE AND OCCUPANCY

5.1 Use Restrictions. Absent prior written approval from the Association and subject generally to the use restrictions set forth in the Rules and Regulations:

- (a) All Units shall be used and occupied only for office purposes (as distinguished from residential or recreational purposes), commensurate with the up-scale character of the Regime by the Owner, tenants, customers and any other invitee or agent of Owner. This restriction shall not prohibit an Owner or tenant from using the Unit for other purposes, provided that such use:
 - (i) is incidental to the Unit's office use; and
 - (ii) conforms to all applicable laws and ordinances.
- (b) No noxious or offensive activities of any sort shall be permitted, nor shall anything be done in any Unit or in any General Common Element or Limited Common Element which shall be or may become an annoyance or nuisance to the other Owners.
- (c) Notwithstanding any other provisions of this Article Five, the Declarant, or any nominee designated by Declarant, may make such temporary use of the General Common Elements and Units as is reasonably necessary to facilitate Declarant's sales efforts and the showing of the Condominium Regime and any unsold Units therein, including the right, without limitation, to maintain one sales office in, on or about the Regime, or any part

thereof, to maintain and show up to four (4) model Units, and to have employees of Declarant in, on or about the Regime to show and use the Units owned by the Declarant and the Common Elements. All such activities shall be without charge to or contribution by the Declarant except for the Common Expense Charge payable by the Declarant with respect to unsold Units. The provisions of this Article Five shall not prohibit the use by the Association of all Common Elements in any reasonable manner necessary in connection with the operation and maintenance of the Regime.

- (d) Nothing shall be done in or kept in or on any Unit, parking space, storage space or other Limited or General Common Element which will increase the rate of insurance on the Regime or any Unit over that generally applicable to office condominiums, or which would result in the uninsurability of the Regime or any part thereof, or the cancellation, suspension, modification or reduction of insurance in or on or covering the Regime or any part thereof. If, by reason of the occupancy or use of any Unit by any Owner, the rate of insurance on all or any portion of the Regime shall be increased, such Owner shall be personally liable to the Association for such increase caused thereby and such sum shall be payable to the Association at the same time and in the same manner as provided for the payment of the Common Expense Charge.
- (e) Each Owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations or requirements of any governmental agency or authority with respect to the occupancy and use of his or her Unit(s) and with the provisions hereof, and the Bylaws and Rules and Regulations promulgated hereunder.

5.2 Limited Common Elements. Limited Common Elements are limited to the exclusive use of the Owner or Owners to which such areas are assigned by the Plat or Plan, provided, however, that the same are subject to the rights of entry set forth in Section 6.3 of this Declaration. Any Limited Common Element so assigned to any Unit shall be deemed appurtenant to such Unit, and shall be deemed to be transferred with any conveyance of such Unit. No Owner of a Unit shall be permitted to convey the Limited Common Element appurtenant to a Unit to any third party, and any such attempted conveyance shall be void, and title to such Limited Common Element shall remain vested in the Owner of such Unit.

5.3 Restrictions on Alienation and Leasing. All leases of any Unit must (i) be in writing, and (ii) provide that such leases are specifically subject in all respects to the provisions of this Declaration and the Bylaws of the Association, and the Rules and Regulations adopted by the Association or the Board. All leases are subject to the occupancy standards, including the limits on the maximum number of occupants per Unit, which are set forth in the Association's Rules and Regulations. Should any lessee or occupant under any lease not comply with this Declaration or such Bylaws, Rules and Regulations or the Master Plan Documents, the Board shall have the right to cancel and terminate such lease, without any liability imposed upon the Board or Association, and for such purpose the Board shall be regarded as the Owner's agent, fully authorized to take such steps as may be necessary to effect the cancellation and termination of

such lease. The Board may resort to any remedies available to it including a proceeding in forcible detainer and the remedies set out in Paragraph 3.2 (c), to enforce the provisions of this Paragraph. A copy of the Rules and Regulations of the Association shall be attached to all such lease agreements. An Owner who has entered into a bona fide lease of his or her Unit shall, within fifteen (15) days of entering in to such lease, give the Board of Directors of the Association written notice of such lease transaction, together with the name, work address and work phone number of the lessee and a copy of such lease as executed. If the notice that is required by this Section is not timely given by the Owner, then the Owner shall be liable to the Board for any costs or expenses incurred by the Board in acquiring the information that should have been contained in the Owner's complete and timely leasing notice to the Board. Other than the foregoing, there shall be no restriction on the right of any Owner to lease his or her Unit. For purposes of this Section 5.3, sublease and subletting shall be deemed to be included in the terms "lease" and "leasing". Nothing in this Section 5.3 shall be deemed to, construed as or used in any way to discriminate against any person on account of race, creed, religion, age, sex, sexual preference or physical challenge.

5.4 Signs. In order to establish harmony and appearance in sign display, the Board does hereby adopt the following rules and regulations regarding the type, color, character and location of all signs in the Regime. Except as provided in this Section 5.4, no Owner shall have the right to place any sign on the exterior of any Unit, Common Element or Limited Common Element or that is visible from the exterior of any Unit or elsewhere on the Regime without the prior written consent of the Board (which consent may be withheld), and the Board shall have the right to remove and dispose of, without liability for trespass or other tort or action in connection therewith, any sign so placed without permission or which is in violation of the established Rules and Regulations of the Association. The Owner of a Unit may, without Board consent, place such signs as he or she deems appropriate inside the Unit so long as they are not visible from the exterior. In addition, any signs, including for sale and for lease signs, placed by or approved by Declarant shall be deemed in compliance and shall not be subject to removal so long as Declarant is the Owner of any Unit in the Regime. Signs which are required by legal proceedings are permitted without prior approval.

Political campaign and political endorsement signs placed and owned by Owners or occupants of any Unit are permitted, but only on such Owner's or occupant's Unit, and only during the generally recognized election or referendum, provided that such signs will not be erected more than 90 days in advance of the election to which they pertain and are removed within 15 days after the election. All such political signs shall be further subject to the time, place, manner, size and quantity limitations as the same may be uniformly implemented and uniformly imposed by the Board from time to time.

5.5 Boundaries of Units. The physical boundaries of the Units, the Common Elements, and the Limited Common Elements, as constructed, shall be conclusively presumed to be the boundaries of such areas, notwithstanding any settling, rising, or other movement or minor variance in the location of the Buildings on the Land, and regardless of any variances actually existing on the date hereof with respect to such boundaries. Additionally, there is hereby granted a valid and existing easement pursuant to Section 82.064 of TUCOA for any encroachments now existing or hereafter arising due to any such minor variances, settling, rising, or other movement and such easement shall exist for such encroachment and the maintenance thereof so long as the Regime exists as a Condominium Regime pursuant to TUCOA.

5.6 Separate Taxes. Taxes, assessments and other charges of the State or of any political subdivision, or any special improvement district or other taxing or assessing authority, shall be assessed by such authorities against and collected as provided in TUCA Section 82.005.

5.7 Use of Common Elements. Each Owner may use the General Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

ARTICLE SIX

MAINTENANCE AND REPAIRS

6.1 Maintenance by The Association.

- (a) The Association shall maintain the portions of the Common Elements, save and except those Common Elements and Limited Common Elements that are contained within the boundaries of the Units, and shall make reasonable and timely repairs to such Common Elements and Limited Common Elements.
- (b) If the need for Common Element or Limited Common Element maintenance or repair is required of the Association and such maintenance is caused by the willful or negligent act of any Owner, his guests, invitees or contractors, the cost of such maintenance or repairs shall, to the extent not covered by the Association's insurance, be deemed a debt of such Owner to the Association, payable on demand, and payment thereof shall be secured in the same manner as for Common Expense Charges as set forth in Article Four hereof
- (c) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element for which the Association has the maintenance responsibility shall be assessed equally against the Units to which the Limited Common Element is assigned.

6.2 Maintenance by Owner.

- (a) Each Owner shall maintain his or her respective Unit and the utility installations and equipment therein or thereto, in good order and repair at all times.
- (b) No Owner shall have the right to modify, alter, decorate (except seasonally, as provided below), redecorate, or improve the exterior of any

Unit, or to take any such action with respect to the interior or exterior of any of the Common Elements without first obtaining the written consent of the Board, which consent may be withheld if deemed not in the best interests of the Regime. However, under no circumstances shall any Owner do any act nor allow any condition to exist which will adversely affect other Owners and their use of the Common Elements or the Limited Common Elements appurtenant to their Units.

- (c) Each Owner shall have the right to modify, alter, repair, decorate, redecorate, or improve the interior of such Owner's Unit, and to repair all of the Unit provided that such action does not change the original appearance of the Unit from the outside, impair the structural integrity, weaken the support, or otherwise adversely affect any of the other Units or any Limited Common Elements or Common Elements, and provided that all such action is performed in good and workmanlike manner. An Owner may place seasonal decorations on his or her Unit, subject to the limitations set forth in the Rules and Regulations.
- (d) If any Owner shall fail to so maintain a Unit, or any portion thereof, the Association shall have the right (but not the obligation) to perform such work as is necessary to put any such Unit which such Owner is required to maintain in good order and repair, and the cost thereof shall be deemed a debt of such Owner in the same manner as for Common Expense Charges as set out in Article Four hereof.

6.3 Easements and Rights of Entry. In addition to the rights of access granted in Sections 82.066 and 82.107 (d) of TUCA, there is hereby created a blanket easement to and for the benefit of the Declarant until the end of the Declarant Control Period, and thereafter to the Association, and their respective duly authorized agents, employees and representatives to provide access to each Unit and Limited Common Elements for the purpose of fulfilling any of its obligations (or the obligations of any Owner, should the Owner fail, refuse, or be unable to do so) under this Declaration, abating any nuisance or any dangerous or unauthorized activity or condition being conducted or maintained in such Limited Common Area, or any prohibited or unlawful activity which affects the welfare or health of other Owners, enforcing the provisions of this Declaration, the Bylaws or the Rules and Regulations promulgated hereunder or thereunder, or for making emergency repairs therein necessary to prevent damage to the Common Elements or Limited Common Elements or to another Unit. Further, the City of Amarillo utility service and public works personnel and personnel of all other utility services shall have a free right of access upon and across the Common Elements and Limited Common Elements for the purposes of reading water and gas meters and maintaining and installing and replacing meters, utility lines and appurtenant equipment within the easements as shown on the Plat attached hereto as Exhibit "A". Except, (i) in the event of an emergency, (ii) in the case of entries to read utility meters and maintain, repair or service utility lines, or (iii) in the event the Board or its agent is unable to contact any Owner or occupant of a Unit after reasonable efforts, such right of entry shall be exercised only in the presence of the Owner or other occupant of the Unit which is entered or without such presence if the Owner or occupant so consents. In all events, such right of entry shall be exercised in such manner as to avoid any unreasonable or unnecessary interference with the possession, use or enjoyment of the Unit by

the Owner or occupant thereof. In the event that any damage is caused to the property of any Owner in connection with the exercise of any such right of entry, such damage shall be repaired at the expense of the Association, and the Board is authorized to expend Common Expense funds therefore.

6.4 Mechanic's Lien. Each Owner agrees to indemnify and hold each of the other Owners harmless from any and all claims of mechanic's or materialman's lien filed against other Units and the appurtenant General Common Elements or Limited Common Elements for labor, materials, services or other products incorporated in the Owner's Unit or any portions of such Unit that would otherwise be deemed to be Common Elements or Limited Common Elements under TUCA. In the event suit for foreclosure of mechanic's or materialman's lien is commenced, then within thirty (30) days thereafter, such Owner shall be required to deposit with the Association, cash or negotiable securities equal to 150% of the amount of such claim. Such sum or securities shall be held by the Association in an FDIC insured account that bears interest and accrues to the Unit Owner making the deposit, pending final adjudication or settlement of the claim or litigation. Disbursement of such funds or proceeds, including any accrued interest, shall be made by the Association to insure payment of or on account of such final judgment or settlement. Any deficiency shall be paid forthwith by the subject Owner, and his or her failure to so pay shall entitle the Association to make such payment, and the amount thereof shall be a debt of the Owner and a lien against his or her Unit which may be foreclosed as is provided in this Declaration.

ARTICLE SEVEN

INSURANCE, CASUALTY AND REBUILDING

7.1 Insurance. The Association shall obtain insurance for all portions of the Condominium Regime as required by Section 82.111 of TUCA, including casualty insurance (but not contents) of the Units. The Board may also obtain such other insurance in such reasonable amounts as the Board may deem desirable, including without limitation so called "Umbrella Policies", and such insurance as may from time to time be available to protect officers, directors and employees of the Association as contemplated or permitted by the Association's Bylaws. The premiums for all insurance acquired on behalf of the Association or the Owners pursuant to the provisions hereof shall be paid out of the Common Expense fund. Unit owners shall be named as insured persons under such policies. Initially, the Association shall obtain coverage for all common element improvements and the Unit structures, equal to 100% of their insurable replacement cost. Initially, the Association shall obtain liability insurance in the following amounts:

- (a) Bodily Injury and Property Damage Liability--\$ 1,000,000.00 combined single limit per occurrence.
- (b) Personal Injury Liability & Advertising Injury Liability.
- (c) Medical Payment--\$5,000.00 per person.
- (d) Non-owned Auto--\$ 1,000,000.00 single limit.

(e) Directors and Officers Liability. \$1,000,000.00 with a \$1,000.00 deductible per occurrence.

This policy shall contain an aggregate limit of liability of \$2,000,000.00 bodily injury and property damage combined, covering the Common Elements. The Board of Directors of the Association has the option to purchase and maintain additional insurance coverage, including that which is commonly provided by an "Umbrella Policy".

The Association is not providing liability coverage for accidents or occurrences that occur within that portion of the Unit or its appurtenances which are reserved for an Owner's exclusive use and occupancy. This includes both the Units and the limited use easements.

The Board may, but shall not be required to obtain, fidelity bonds indemnifying the Association, the Board and the Owners from loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling the funds of the Association in such an amount as the Board may deem desirable.

All insurance provided for in this Section or in §82.111 of TUCA shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Texas. If, but only if, the same is available at a reasonable cost, the Association shall obtain such policy or policies from an insurance company that has a current Best rating of A- or better. If an insurance policy or policies specifically designed to meet the insurance needs of Condominium Regimes becomes available in Texas through action by appropriate governmental agencies or otherwise, the Board shall be authorized to obtain such a policy if the coverage provided by such policy is at least equal to the coverage provided by those policies specified above.

7.2 Individual Insurance. Each Owner shall be solely responsible for and shall obtain insurance on the contents of his or her Unit and the furnishings, wall and floor coverings and appliances. Each Owner shall also be required to insure the improvements to the Limited Common Elements appurtenant to his or her Unit, other than those Limited Common Elements which the Association is required to maintain, against loss or damage by fire and other risks embraced by a standard extended coverage policy promulgated for use in the State of Texas (with vandalism and malicious mischief endorsements), in amounts sufficient to prevent the Owner from becoming a co-insurer within the terms of the policies, but in any event in an amount not less than the full insurable value thereof. Each Owner shall also maintain under his or her condominium Owner policy or otherwise personal and general liability insurance against claims for personal injury or death or property damage suffered by the public or any other Owner or Member, family members, agents, employees or invitees of any other Owner or Member, or any agent (including Declarant's Agent), employee, officer, director or contractor of the Association or the Declarant, occurring in, on or about said Owner's Unit or the Limited Common Elements appurtenant to such Owner's Unit, which insurance shall afford protection to such limits as the Board shall deem desirable, but not less than one hundred thousand dollars (\$ 100,000.00) per incident and two hundred fifty thousand dollars (\$250,000.00) aggregate policy limits. All policies of casualty insurance carried by each

by the Association for the benefit of all of the Owners as above provided. Owners may carry individual policies of liability insurance insuring against the liability of such Owners, at their own cost and expense.

7.3 Waiver of Subrogation. All insurance policies provided for in this Article Seven shall contain provisions requiring the insurer to waive its subrogation rights as against all Owners and the family members of said Owners, Declarant, Declarant's Agents, the Association, and the officers and directors of the Association with respect to, but only to, the extent of any losses covered by such insurance.

ARTICLE EIGHT

FIRE OR CASUALTY; REBUILDING

8.1 Determination of Loss. In the event of a fire or other casualty causing damage or destruction to any Common Element, the determination of loss, and decisions addressing the rebuilding and repair of the Common Element shall be handled as provided in Section 82.111 of TUCA.

8.2 Repair of Units. Each Owner shall be responsible for the repair, reconstruction, and replacement of all furnishings, wall and floor coverings, office systems, computers and equipment, appliances and other personal property in his or her Unit, including the appurtenant Limited Common Elements for which the Owner has the maintenance responsibility.

8.3 Deposit and Disposition of Insurance Proceeds. Insurance proceeds for the awards made as to damage to the Units, Limited Common Elements and Common Elements shall be delivered to the Declarant's First Mortgagee or its designee for so long as the Declarant has a First Mortgagee and the Declarant's First Mortgagee, or its designee, shall receive, hold and disburse such funds as the "Insurance Trustee" (the "Insurance Trustee") as contemplated by the provisions of Section 82.111 (f) of TUCA and in the same manner and subject to the same terms and conditions as are (or may be) provided in any loan agreement between the Declarant and the Declarant's First Mortgagee for the disbursement of loan proceeds. If there is no Declarant's First Mortgagee, then the insurance proceeds for the awards made as to damage to the Units, Limited Common Elements, and Common Elements shall be delivered to the Association and disbursed and distributed as provided in Section 82.111 (i) of TUCA. To the extent not inconsistent with such Section of TUCA, any distribution of insurance proceeds in connection with the termination of the Regime shall be made based on each Unit Owner's undivided interest in the Common Elements.

The Insurance Trustee shall have no liability or obligation whatsoever in connection with the restoration of the Common Elements or the construction, completion or inspection thereof or for the work performed thereon, and shall have no obligation except to advance the insurance proceeds as provided above. The Insurance Trustee shall not be obligated to inspect the work, nor be liable for the performance or default of any contractor or subcontractor, nor be liable for any failure to construct, complete, protect or insure the work, or any part thereof, nor be liable for the payment of any cost or expense incurred in connection therewith, except for its willful failure to advance the insurance proceeds as provided above, nor be liable for the performance or

non-performance of any obligation of the Declarant or the Association and nothing, including without limitation, any disbursement of insurance proceeds, shall be construed as a representation or warranty, express or implied, on the part of the Insurance Trustee. Further, the Declarant or the Association, as the case may be, shall be solely responsible for all aspects of the work, including, but not limited to:

- (a) The quality and suitability of the plans and specifications;
- (b) Supervision of the work;
- (c) The qualifications, financial condition and performance of all architects, engineers, contractors, subcontractors, suppliers and consultants;
- (d) Conformance of the work to the requirements of all applicable public and private restrictions and requirements;
- (e) The quality and suitability of all materials and workmanship; and
- (f) The accuracy of all requests for the disbursement of insurance proceeds and the proper application of disbursed insurance proceeds.

The Insurance Trustee shall have no obligation to supervise or inspect the work or to inform the Unit Owners or any third party of any aspect of the work or any other matter referred to above. Any inspection or review made by the Insurance Trustee shall be made for its own purposes and neither the Declarant, the Association, any Unit Owner, nor any third party shall be entitled to rely upon any such inspection or review. The Insurance Trustee shall owe no duty of care to the Declarant, the Association, any Unit Owner, nor any third person to protect against or inform any such persons of the existence of negligent, faulty, inadequate or defective design or construction of the work.

Neither the Declarant, the Association, any Unit Owner, nor any other person may require satisfaction of any condition precedent to the obligation of the Insurance Trustee to make any advance of insurance proceeds which are imposed by the provisions of any loan agreement between the Declarant and the Declarant's First Mortgagee nor be entitled to assume that the Insurance Trustee will refuse to make any advance of insurance proceeds in the absence of strict compliance with any such conditions precedent. Any such requirement may be waived by the Insurance Trustee, in whole or in part, at any time.

The Insurance Trustee's duties and responsibilities in connection with the insurance proceeds shall be purely ministerial and shall be limited to those expressly set forth in TUCA and this Declaration. The Insurance Trustee shall not be required to exercise any discretion hereunder and shall have no investment or management responsibility and, accordingly, shall have no duty to, or liability for its failure to, invest the insurance proceeds. The Insurance Trustee shall not be liable for any error in judgment, any act or omission, any mistake of law or fact, or for anything it may do or refrain from doing in connection herewith, except for, subject to the next succeeding Paragraph hereof, its own willful misconduct or gross negligence. The Insurance Trustee shall never be required to use, advance or risk its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights and powers.

The Insurance Trustee may rely on, and shall not be liable for acting or refraining from acting upon, any written notice, instruction or request or other paper furnished to it hereunder or pursuant hereto and believed by it to have been signed or presented by the proper party or parties. In no event shall the Insurance Trustee be liable for any lost profits, lost savings or other special, exemplary, consequential or incidental damages. The Insurance Trustee may consult with its counsel or other counsel satisfactory to it concerning any question relating to its duties or responsibilities hereunder or otherwise in connection herewith and shall not be liable for any action taken, suffered or omitted by it in good faith upon the advice of such counsel.

Should any controversy arise involving the insurance proceeds, or should a substitute Insurance Trustee fail to be designated as provided in the next succeeding Paragraph hereof, or if the Insurance Trustee should be in doubt as to what action to take, the Insurance Trustee shall have the right, but not the obligation, either to (a) withhold delivery of the insurance proceeds until the controversy is resolved, the conflicting demands are withdrawn or its doubt is resolved or (b) institute a petition for interpleader in any court of competent jurisdiction to determine the rights of the parties with respect thereto. In the event the Insurance Trustee is a party to any dispute, the Insurance Trustee shall have the additional right to refer such controversy to binding arbitration. Should a petition for interpleader be instituted, or should the Insurance Trustee be threatened with litigation or become involved in litigation or binding arbitration in any manner whatsoever in connection with the insurance proceeds, then, the Association hereby agrees to reimburse the Insurance Trustee for its reasonable attorneys' fees and any and all other expenses, losses, costs and damages incurred by the Insurance Trustee in connection with or resulting from such threatened or actual litigation or arbitration.

The Insurance Trustee may resign as such upon ten (10) days' prior notice to the Association. Upon the effective date of such resignation, the Insurance Trustee shall deliver the remaining undisbursed insurance proceeds to any substitute Insurance Trustee designated by the Association in writing, with the written consent of the Declarant's First Mortgagee. If the Association fails to designate a substitute Insurance Trustee with the written consent of the Declarant's First Mortgagee within ten (10) days after the giving of such notice, the Insurance Trustee may institute a petition for interpleader. The Insurance Trustee's sole responsibility after such 10-day notice period expires shall be to hold the remaining undisbursed insurance proceeds, (without any obligation to invest the same) and to deliver the same to a designated substitute Insurance Trustee, if any, or in accordance with the directions of a final order or judgment of a court of competent jurisdiction, at which time of delivery the Insurance Trustee's obligations hereunder shall cease and terminate.

The Association hereby agrees to pay the Insurance Trustee for its services hereunder in accordance with such fee schedules as may be furnished from time to time by the Insurance Trustee to the Association and to pay all expenses incurred by the Insurance Trustee in connection with the performance of its duties and enforcement of its rights hereunder, including, without limitation, reasonable attorneys' fees and related expenses incurred by the Insurance Trustee. In the event the Association for any reason fails to pay any such fees and expenses as and when the same are due, such unpaid fees and expenses shall be charged to and may be set-off and paid from the insurance proceeds by the Insurance Trustee without any further notice.

ARTICLE NINE

CONDEMNATION

9.1 Participation in Condemnation Proceedings; Expenses. If all or any part of the Regime is taken or threatened to be taken by condemnation, eminent domain, or by any other similar power, the Board and each Owner whose Unit is being taken in whole or part shall be entitled to participate in proceedings incident thereto at their respective expense. The Board shall give notice of the existence of such proceedings to all Owners and Mortgagees known to the Board. The expense or participation in such proceedings by the Board shall be borne by the Common Expense fund. The Board is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses, and other persons as the Board in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Board, acting as trustee, and such damages or awards shall be applied or paid as provided herein.

9.2 Condemnation of Common Areas. In the event that an action in eminent domain is brought with respect to a portion of the Common Elements or any Limited Common Elements that are not exclusively limited to the use of the Owner of one Unit, the Board shall have the sole authority to determine whether to defend any such proceedings; to make any settlement with respect thereto; or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking of Common Elements or Limited Common Elements that are not exclusively limited to the use of an Owner of one Unit, all damages and awards shall be determined for such taking as a whole and not each Owner's interest therein. After the damages and awards for such taking are determined, the Board shall decide whether to replace or restore the Common Elements or, may, if it deems advisable, call a meeting of the Association, at which meeting the Members by majority vote, shall decide whether to replace or restore as far as possible the Common Elements or such Limited Common Elements so taken or damaged. Any damages or awards not so used for replacement or restoration shall be paid to the Owners as provided in Section 82.007 (c) of TUCA.

In the event that an action in eminent domain is brought with respect to a portion of the Limited Common Elements that are exclusively limited to the use of one Owner or one Unit, the Owner or Owners of said Unit shall have the sole authority to determine whether to defend any such proceedings, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceedings. With respect to any such taking of the Limited Common Elements, all damages and awards remaining after any necessary repairs or replacements respecting the Limited Common Elements so taken, shall be paid to the Association as required in Section 82.007 (c) of TUCA, and shall be distributed by the Association to the Owner or Owners of the Unit or Units to which such Limited Common Elements were appurtenant.

9.3 Deposit and Disposition of Funds and Regrouping of Surviving Units. In the event that any eminent domain proceeding results in the taking of or damage to one or more Units, then the damage and awards for such taking and the payment thereof, and the regrouping of ownership interests, shall be determined in accordance with Section 82.007 (a) and (b) of TUCA. Any proceeds for the awards made as to any taking or damage to the Common Elements

shall be delivered to the Declarant's First Mortgagee for so long as the Declarant has a First Mortgagee and the Declarant's First Mortgagee shall receive and hold such funds in the same manner as the "Insurance Trustee" as contemplated by Section 82.111 (f) of TUCA and shall disburse the same as provided in Section 82.007 (c) of TUCA and in accordance with and subject to the terms and provisions of Section 8.3 of this Declaration.

ARTICLE TEN

AMENDMENTS TO DECLARATION

10.1 Amendment by Declarant. Until such time as the first Unit in this Regime is sold to a third party, and thereafter during the Declarant Control Period as to the matters that are set forth above as the Special Rights Reserved by the Declarant, Declarant as Owner of 100% of the votes in the Association reserves the right to amend the provisions hereof at any time, and from time to time prior to the date of such first sale. Declarant's First Mortgagee, however, must join with the Declarant in executing any such amendment or amendments. Pursuant to Section 82.067 (a)(3) of TUCA, any such amendments may be adopted by a unanimous written consent signed by the Declarant's First Mortgagee and the Declarant (as the sole member of the Association for so long as the Declarant is the sole member of the Association, and thereafter by the Declarant as a member of the Association and as the attorney in fact for all of the other Members and their First Mortgagees pursuant to the power of attorney set forth in Section 13.9 below), and shall otherwise be made in accordance with Section 82.067(g) of TUCA. Further, amendments may be executed by Declarant pursuant to Sections 82.051(c), 82.059(f), 82.060 and 82.067(f) of TUCA.

10.2 Other Permitted Methods of Amendments. This Declaration may be amended pursuant to any of the methods set forth in Section 82.067(a) or (f) of TUCA. Further amendments may be made by the Association pursuant to Sections 82.007, 82.056(d), 82.058(c), 82.062 or 82.063 of TUCA. Certain Unit Owners may amend this Declaration pursuant to Sections 82.058(b), 82.062, 82.063(b), and 82.068(b) of TUCA, and Section 2.4 above. No such amendment shall be effective until an original thereof is duly recorded in the Official Public Records maintained by the County Clerk of Randall County, Texas.

10.3 Termination. This Declaration may be terminated as a matter of law in case of a total taking of the Regime. This Declaration may also be terminated following a substantial casualty or a substantial, but less than total, taking of the Regime in a condemnation action or other governmental taking, or for any other reason, pursuant to an amendment approved by at least 80% in interest of all Unit Owners and by First Mortgagees who represent at least 51% of the votes of Unit estates that are subject to Mortgages and which otherwise complies with Section 82.068 of TUCA.

10.4 Limitations. No amendment may, unless approved by at least 67% in interest of all Owners and by First Mortgagees who represent at least 51% of the votes of Unit estates that are subject to Mortgages:

- (a) by act or omission, seek to abandon, encumber, sell, withdraw, convert or transfer the Common Elements, except for granting public utility easements, and except as set out in Paragraphs 6, 7 and 14 of the Basic Provisions;

- (b) modify assessment liens or the priority thereof;
- (c) reduce reserves for the maintenance, repair or replacement of the Common Elements (save and except to the extent that the reserve item is being collected by and the maintenance, repair and replacement is being handled by the Association);
- (d) modify the responsibility for maintenance and repairs (save and except to the extent that the maintenance and repair responsibility is being transferred to the Association);
- (e) modify the hazard or the fidelity insurance requirements;
- (f) modify the provisions pertaining to the repair or restoration of the Regime after a casualty or partial condemnation; or
- (g) modify, add or delete any provision that expressly benefits Mortgagees, insurers or guarantors.

No amendment may, unless approved by at least 80% in interest of all Owners and by First Mortgagees who represent at least 51% of the votes of Unit estates that are subject to Mortgages:

- (h) by act or omission, seek to abandon or terminate the Condominium Regime, except for abandonment provided by statute in case of substantial loss or taking by eminent domain (or voluntary sale in lieu thereof) to the Units or Common Elements or Limited Common Elements.

No amendment may, unless approved by 100% in interest of all Owners and by First Mortgagees who represent at least 51% of the votes of Unit estates that are subject to Mortgages:

- (i) change the voting rights or the pro-rata interest or obligations of any Unit or Owner, other than in response to a reallocation under Section 2.4, above or due to a taking by eminent domain (or voluntary sale in lieu thereof), or due to the exercise of the Special Declarant's Rights in Basic Provision 14;
- (j) increase the number, whether by partition, subdivision, or otherwise, of Units or any part of the Common Elements, other than due to the exercise of the Special Declarant's Rights in Basic Provision 14;
- (k) create or increase Special Declarant Rights;
- (l) alter or destroy a Unit or a Limited Common Element, other than due to the exercise of the Special Declarant's Rights in Basic Provision 14 and excluding any alteration as provided in Section 2.4;

- (m) change the use restrictions affecting a Unit, or impose any further restrictions on the leasing of Units or the Owner's right to sell or transfer his or her Unit; or
- (n) redefine any Unit boundaries or convert any Unit into Common Elements, except for changes in Unit boundaries resulting from the exercise of the Special Declarant's Rights in Basic Provision 14 and excluding any alteration as provided in Section 2.4, above.

10.5 Conform to Law. Except as provided in Basic Provisions 7 and 14, above, the rights of use and the location of the Limited Use Easements may not be altered, unless the affected Unit Owners and the Unit Owner's Mortgagees (or the Declarant as their attorney in fact on their behalf as provided in Section 13.9 below) consent in writing in recordable form which is recorded in the Official Public Records of Randall County, Texas as part of an amendment to this Declaration, in the form required for such amendments. The foregoing shall apply to the reallocation of Limited Common Elements pursuant to Section 2.4 above. Further, unless the Declarant and (to the extent one still exists) the Declarant's First Mortgagee, joins in such amendment, no amendment may affect the Declarant's obligations or rights under this Declaration.

10.6 Methods of Obtaining Consents. Any consent required to effect an amendment to the Declaration may additionally be obtained by facsimile ballots or mail ballots, separately or in conjunction with a meeting called to consider an amendment, by vote of members present at any such meeting in person, or by proxy or who is in attendance by telephone conference in which the Member can hear and be heard.

10.7 Declarant as Mortgagee. The Declarant may not vote as a Mortgagee or a First Mortgagee on any matter that requires the consent from any Mortgagee (including First Mortgagees) to effect an amendment to the Declaration. The Declarant may not otherwise act to approve or disapprove any matter that requires the consent from any Mortgagee (including First Mortgagees) to effect an amendment to the Declaration. Any such approvals from Mortgagees or First Mortgagees must be obtained from the required number or percentage of Mortgagees or First Mortgagees, other than the Declarant as any such Mortgagee.

ARTICLE ELEVEN

PROTECTION OF MORTGAGEES

11.1 Notice to Association. An Owner who Mortgages his or her Unit shall notify the Board, giving the name and address of the Mortgagee including the name and address of the person to whom notices are to be directed hereunder. The Mortgagee must be identified as a First Mortgagee in order to receive the special rights of a First Mortgagee. The Board shall maintain such information in a book entitled "Mortgagees of Units." Any Mortgagee may give such notice in addition to or in lieu of such Owner's notice.

11.2 Notice of Default. The Association shall notify a Mortgagee in writing, upon request of such Mortgagee, of any default by its Mortgagor in the performance of such

Mortgagor's obligations as set forth in this Declaration or Bylaws or Rules and Regulations which is not cured within ten (10) days.

11.3 Examination of Books. The Association shall permit Mortgagees, and their agents duly authorized in writing delivered to the Association, to examine the books and records of the Association during normal business hours.

11.4 Notice of Change. The Association shall give each Mortgagee identified pursuant to Section 11.1 above written notice of any:

- (a) proposed termination of the Condominium Regime;
- (b) proposed condemnation or eminent domain proceedings affecting the Condominium Regime or any part thereof;
- (c) any significant damage or destruction to a Building;
- (d) any proposed change or amendment to this Declaration, Bylaws, or Rules or Regulations which would effect a change in any of the matters stated in Section 10.4 of this Declaration;
- (e) any delinquency of 60 or more days in the payment of assessments or charges by the Owner of any Unit encumbered by such Mortgagee's Mortgage; or
- (f) the lapse, cancellation or material modification of any insurance policy maintained by the Association.

First Mortgagees only who have been identified pursuant to Section 11.1 above shall have the right to join in any decision making regarding the matters set forth in Sections 10.3 and 10.4 above. Any notice sent to a First Mortgagee to the address maintained by the Association pursuant to Section 11.1 shall, if the same is sent by certified or registered mail, return receipt requested, operate to bind the First Mortgagee to a consent to the proposed change or amendment if such First Mortgagee fails to respond to any such written proposal for amendment within 30 days of the date the First Mortgagee received the notice as demonstrated by the return receipt.

11.5 Notice of Meetings. The Association shall furnish each Mortgagee, upon request of such Mortgagee, prior written notice of all meetings of the Association and permit the designation of a representative of such Mortgagee to attend (for monitoring purposes only) such meetings, one such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

11.6 Claims for Unpaid Assessments. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for such Unit's unpaid dues or charges which accrued after the recording date of Mortgagee's Mortgage and prior to the acquisition of title to such Unit by the Mortgagee.

11.7 Taxes, Assessments and Charges. All taxes, assessments and charges which may become liens prior to the Mortgage under the local law shall relate only to the individual Unit and not to the Regime as a whole.

11.8 Financial Statement. Any Mortgagee shall be entitled, upon request, to receive the Association's annual audited financial statement for the immediate preceding fiscal year, except that such statement need not be furnished earlier than ninety (90) days following the end of such fiscal year.

11.9 Insurance Proceeds. The right of any Mortgagee to insurance proceeds shall be determined as provided in Section 82.111 of TUCA. See Section 8.3 above regarding the Declarant's First Mortgagee's service as the "Insurance Trustee" contemplated by Section 82.111 (f) of TUCA.

11.10 Notice of Loss. The Association shall give notice to Mortgagees in writing of any loss to, or taking of, the Common Elements of the Regime if such loss or taking exceeds \$10,000.00 or if damages to a Unit covered by a Mortgage exceeds \$5,000.00.

11.11 Partition. No partition may be effected until consent is had from all affected Mortgagees or all affected Mortgages are paid in full.

ARTICLE TWELVE

EXCULPATION

12.1 Injury to Person or Property. Owners acknowledge that the Declarant, Declarant's Agent and the Association have no duty to Owners or their agents and invitees: to protect the Unit Owners and their guests, employees, contractors agents and invitees from harm or loss. Each Unit Owner shall be solely and exclusively responsible for supervising his or her own employees, agents, contractors, guests and invitees under his or her control. By accepting and recording the deed to a Unit, each Owner agrees that the foregoing is reasonable and constitutes the exercise of ordinary care by the Association, Declarant and Declarant's Agents. Each Owner agrees to indemnify and hold harmless the Association and Declarant and Declarant's Agents from any claim of damages, to person or property arising out of an accident or injury in or about the Regime to the extent and, only to the extent caused by the acts or omissions of the Unit Owner, his guests, employees, agents, contractors or invitees and not covered by the association's insurance.

ARTICLE THIRTEEN

MISCELLANEOUS

13.1 Enforcement. Declarant, the Association and any Owner shall have the right to enforce, by any proceeding at law or in equity, all terms and provisions hereof. The violation of any Rule or Regulation promulgated by the Board, or the breach of any Bylaws, or the breach of any provision of the Declaration, if the Board has first requested in writing that an Owner abate or

remove the cause of a violation of the terms and provisions hereof or any Rule or Regulation promulgated by the Board or Bylaws, and such request is not complied with within five (5) calendar days (excluding the date notice is dispatched), shall give the Board the right, in addition to any other rights set forth therein or allowed at law or in equity:

- (a) to enter the Unit or Limited Common Element in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any person, structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions thereof, and the Board shall not be deemed guilty in any manner of trespass, and to expel, remove and put out same, using such force as may be necessary in so doing, without being liable for prosecution or damages therefor; and
- (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. Failure by the Board, the Declarant, Declarant's Agent, or by any Owner to enforce any covenant or restriction shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction thereafter.

The foregoing notwithstanding, no item of construction may be altered or demolished after the Association is notified that judicial proceedings have been instituted respecting such item of construction.

13.2 Rules and Regulations. The Rules and Regulations with respect to the day-to-day maintenance, operation, and enjoyment of the Common Elements, Limited Common Elements and the Regime may be amended from time to time by the Board, PROVIDED HOWEVER, that such Rules may not be in conflict with law or the documents governing the Regime and must affect the Common Elements or other Units and further provided that to the extent the same constitute restrictions on use, occupancy, or alienation of any Unit, the Rules so adopted may only be to implement the use, occupancy or alienation provisions that are set forth in this Declaration. [See TUCA Section 82.102 (a) (7)]. The Rules and Regulations are of equal dignity with, and shall be enforceable in the same manner as the provisions of this Declaration but, in the event of a conflict, this Declaration shall control. Each Owner, by accepting conveyance of a Unit, agrees to comply with and abide by the Rules and Regulations, as the same may be amended from time to time.

13.3 Binding. The terms and provisions hereof shall be deemed to be covenants running with the Land and shall be binding upon the Declarant, all Owners, Mortgagees and their heirs, legal representatives, successors and assigns.

13.4 Partition. The Common Elements and Limited Common Elements shall remain undivided and shall not be subject to an action for partition or division so long as the Regime is maintained as a Condominium Regime in accordance with the terms and provisions hereof.

13.5 Severability. In the event of the invalidity or partial invalidity or unenforceability of any provision or portion of this Declaration, the remainder of this Declaration shall remain in full force and effect and in lieu of such severed provision or provisions there shall be substituted a provision which is as close thereto as possible in meaning and intent, which is valid and enforceable.

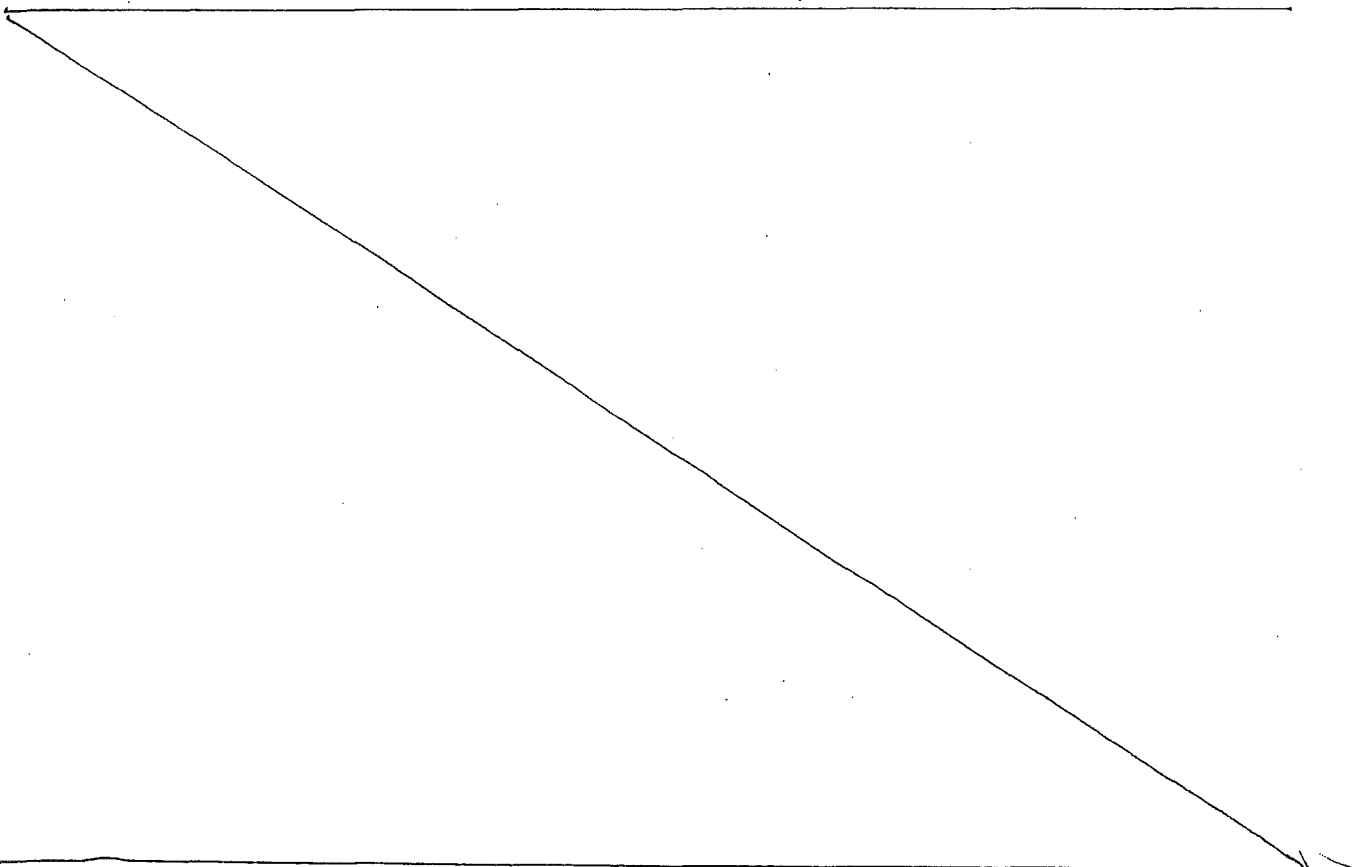
13.6 Exhibits. Exhibits "A", "B", "C" and "D" attached hereto are hereby incorporated by reference in this Declaration for all purposes, as if set out verbatim wherever referenced herein.

13.7 Limitation on Contract Term. In addition to the rights set forth in Section 82.105 of TUCA, any executory contract made by the Association for professional management, or providing for services by the Declarant, shall be terminable by either party without cause or payment of a termination fee, on ninety (90) days' written notice (calculated from the date that such written notice properly addressed with postage prepaid is deposited in the U.S. mail) and shall have a maximum term of no more than two (2) years.

13.8 Conflicting Provisions. If there is a conflict between the Bylaws and this Declaration, the Declaration shall be controlling. If there is any conflict between the Master Plan Documents and this Declaration, the Master Plan Documents shall be controlling as to matters related to Master Plan but not as to matters related exclusively to the Condominium. If the Declaration or the Master Plan Documents are contrary to any controlling provisions of TUCA, TUCA shall be controlling.

13.9 Declarant as Attorney in Fact and Proxy. To facilitate the exercise of the Special Rights Reserved by the Declarant in Basic Provision 14 above, each Owner, by accepting the benefits of a deed conveying a Unit in the Regime, each Mortgagee, by accepting the benefits of a Mortgage against a Unit in the Regime, and any other person (hereafter called an "Other Person"), by accepting the benefits of a Mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Unit in the Regime, shall thereby be deemed to have appointed Declarant the irrevocable attorney-in-fact, with full power of substitution, of each such Owner, Mortgagee and/or Other Person to do and perform each and every act permitted or required in Basic Provision 14 and which may otherwise be reasonably necessary in connection therewith. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or Other Person, shall be deemed, conclusively, to be coupled with an interest and shall survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or Other Person and shall be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such Owner, Mortgagee and Other Person. In addition, each Owner, by accepting the benefits of a deed conveying a Unit in the Regime, and each Mortgagee, by accepting the benefits of a Mortgage against a Unit in the Regime, and any Other Person, by accepting the benefits of a Mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Unit in the Regime, shall thereby appoint Declarant the proxy of such Owner, Mortgagee or Other Person, with full power of substitution in the premises, to do and perform each and every act permitted or required in

Basic Provision 14 and which may otherwise be reasonably necessary in connection therewith, including without limitation, to cast a vote for such Owner, Mortgagee or Other Person at any meeting of the Members for the purpose of approving or consenting to any amendment to this Declaration in order to effect and perfect any such Special Rights Reserved by the Declarant and to execute and record amendments on their behalf to such effect; and the power hereby reposed in the Declarant, as the attorney-in-fact for each such Owner, Mortgagee or Other Person includes, without limitation, the authority to execute a proxy as the act and deed of any Owner, Mortgagee or Other Person and, upon termination or revocation of any Owner's proxy as permitted by the Texas Business Organizations Code, the authority to execute successive proxies as the act and deed of any Owner, Mortgagee or Other Person authorizing the Declarant, or any substitute or successor Declarant appointed thereby, to cast a like vote for such Owner at any meeting of the Members of the Association. Furthermore, each Owner, Mortgagee and Other Person upon request by the Declarant, will execute and deliver a written proxy pursuant to Section 82.110(b) of TUCA, including a successive written proxy upon the termination or revocation as permitted by the Act of any earlier proxy, authorizing the Declarant, or any substitute or successor Declarant appointed thereby, to cast a like vote for such Owner at any meeting of the Members of the Association. If the Declarant does not exercise its rights during the Declarant Control Period under Basic Provision 14 a., any and all such appointments and successive proxies shall expire at the end of the Declarant's Control Period as defined in Basic Provision 14 b. above. If the Declarant exercises any of its rights during the Declarant Control Period under Basic Provision 14 a., any and all such appointments and successive proxies shall survive the expiration of the Declarant's Control Period as defined in Basic Provisions 14 b. above and shall survive until the 7th anniversary of the sale of the first Unit in the Regime to a person other than the Declarant, but only for carrying out the purposes set forth in the specific Basic Provision 14 a. that were exercised by the Declarant during the Declarant Control Period.



All such proxies shall be non-revocable for the maximum lawful time and upon the expiration of non-revocable period, new proxies shall again be executed for the maximum non-revocable time until Declarant's right to require such successive proxies expires.

DECLARANT

On Golden Pond, L.P.

By: Edwardian2 Inc.,

Its General Partner

By: 

Edward W. Bradley, President

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____, 2006 by Edward W. Bradley, President of Edwardian2 Inc., in its capacity as general partner of On Golden Pond, L.P., on behalf of said limited partnership.

Notary Public, State of Texas

Printed Name: _____

Commission Expires: _____

JOINDER BY MORTGAGEE

The undersigned, being the sole mortgagee and holding a mortgage against the land and the 20 Units which must be built, joins in the execution of this Declaration for the purposes of establishing said Condominium Regime, and subordinating the liens and security interests of said Mortgagee (including, without limitation, those more fully set forth below) to the Condominium Regime hereby established and extending said liens and security interests to the Units hereby created and hereafter created and the appurtenances thereto, including the Limited Common Elements and the undivided Percentage Interests in and to the Common Elements:

Construction Deed of Trust dated April 14, 2006, recorded under Clerk's file No. 2006008261, Official Public Records of Randall County, Texas executed by On Golden Pond, L.P. to J. Gregg Jordan, Trustee, securing one Promissory note of even date therewith in the amount of One Million Eighty Nine Thousand One Hundred Fifty Four and no/100 dollars (\$1,089,154.00) payable to Amarillo National Bank.

The undersigned joins herein for the sole purpose of subordinating the liens described above to the Condominium Regime and makes no representation or warranty, expressed or implied, of any nature whatsoever, to any present or future Owner or purchaser of a Unit with respect to such Unit or the Condominium Regime. All such Owners or purchasers agree by their purchase of a Unit that no such representation or warranty has been made by the undersigned and that they have not relied upon the undersigned in any way in making their decision to acquire a Unit.

Amarillo National Bank

By: _____

Printed Name: _____

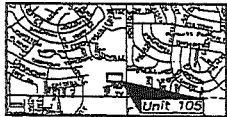
Its: _____

State of Texas
County of _____

This instrument was acknowledged before me on this _____ day of _____, 2006, by _____, the _____ of Amarillo National Bank, on behalf of said national banking institution.

Notary Public

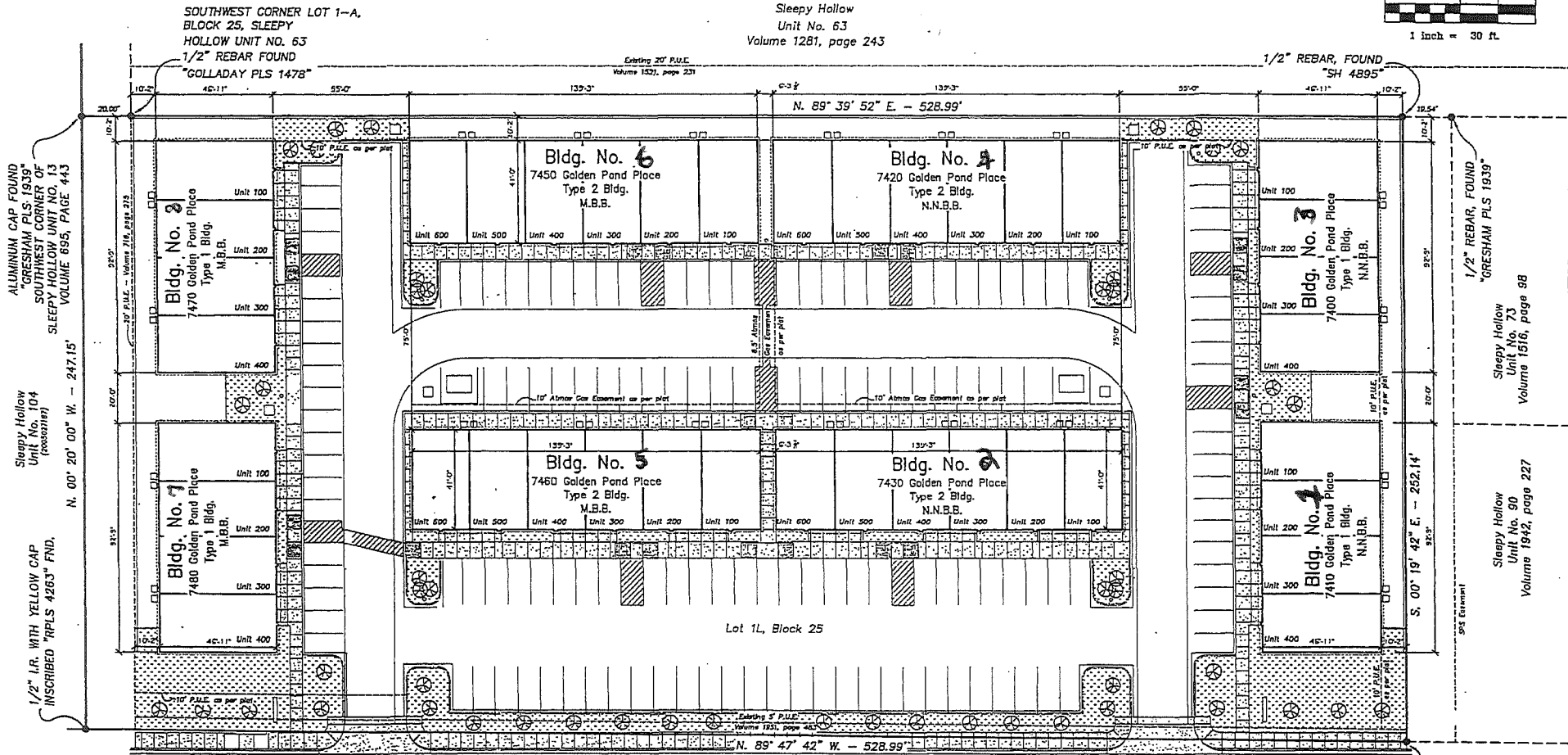
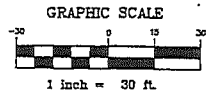
Printed Name
Commission Expires: _____



Vicinity Map

"On Golden Pond Office Condominium, a Condominium"

Being all of Sleepy Hollow Unit No. 105 out of Section 41,
Block 9, B. S. & F. Survey, City of Amarillo, Randall County, Texas
3.03 ACRES



GOLDEN POND PLACE

Clerk's File No. 02-24992
(60" R.O.W.)

NOTES

1. THESE PLANS ARE INTENDED TO SERVE AS A PLAN OF THE "ON GOLDEN POND OFFICE CONDOMINIUM" TO BE LOCATED ON SLEEPY HOLLOW UNIT NO. 105, CITY OF AMARILLO, RANDALL COUNTY, TEXAS
2. ALL PROPERTY IS SUBJECT TO DEVELOPMENT RIGHTS, INCLUDING RIGHTS TO CREATE UNITS, COMMON ELEMENTS AND UNITED COMMON ELEMENTS, TO SUBDIVIDE UNITS OR CONVERT UNITS INTO COMMON ELEMENTS. IN THE EAST HALF OF THE PROPERTY, THE DECLARANT ALSO RESERVES THE RIGHT TO WITHDRAW ALL OR ANY PART OF THE PROPERTY FROM THE CONDOMINIUM.
3. THE TO-BE-BUILT DIMENSIONS REPRESENT A GENERAL CONDITION WHICH IS TO BE USED AS A CONSTANT AT MULTIPLE LOCATIONS.
4. INTERIOR WALLS AND PARTITIONS WITHIN EACH UNIT HAVE NOT BEEN SHOWN ON THE PLANS.
5. THE CONSTRUCTION OF THESE DRAWINGS IS BASED UPON THE CONSTRUCTION OF THE PROPERTY AS SHOWN BY D. SCOTT STARK, ARCHITECT, AND ARE NOT BASED UPON OBSERVATIONS AND MEASUREMENTS.

STATE OF TEXAS : I, KNOW ALL MEN BY THESE PRESENTS,
COUNTY OF COLLINGSWORTH : that I, Richard E. Johnson, Registered
Professional Land Surveyor, do hereby
certify that this plot accurately represents
the results of an on-the-ground survey made under my direction and
supervision on the date shown, and is correct to the best of my professional
knowledge and belief. The foregoing plot contains the information required by
the Texas Uniform Condominium Act.

IN WITNESS THEREOF, my hand and seal, this the 7TH day of August
A.D., 2008.



Richard E. Johnson
Richard E. Johnson
Professional Land Surveyor
No. 4263

FILED OF RECORD

DATE COUNTY

CLERK'S FILE No.

LEGEND

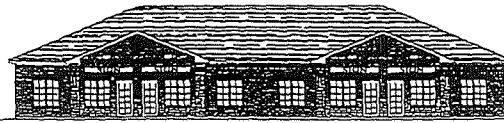
M.B.B. = Must Be Built
N.N.B.B. = Need Not Be Built

On Golden Pond Office Condominium
City of Amarillo, Randall County, Texas

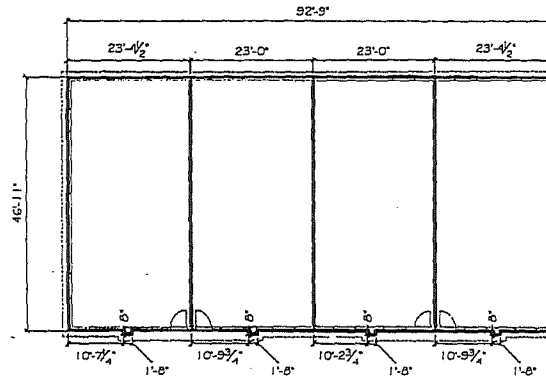
SCALE: 1" = 30'
DATE: July 27, 2008
APPROVED BY:
FILE NAME:
DRAWN BY: JA
OJD Engineering
Consulting Engineers & Surveyors
806-447-2503
804 East Avenue
Wilmington, Texas 79005
DRAWING NUMBER

NOTES

1. THESE PLANS ARE INTENDED TO SERVE AS A PLAN OF THE "ON GOLDEN POND OFFICE CONDOMINIUM" TO BE LOCATED ON SLEEPY HOLLOW UNIT NO. 105, CITY OF AMARILLO, RANDALL COUNTY, TEXAS
2. ALL PROPERTY IS SUBJECT TO DEVELOPMENT RIGHTS, INCLUDING RIGHTS TO CREATE UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS, TO SUBDIVIDE UNITS OR CONVERT UNITS INTO COMMON ELEMENTS. IN THE EAST HALF OF THE PROPERTY, THE DECLARANT ALSO RESERVES THE RIGHT TO WITHDRAW ALL OR ANY PART OF THE PROPERTY FROM THE CONDOMINIUM.
3. THE TO-BE-BUILT DIMENSIONS REPRESENT A GENERAL CONDITION WHICH IS TO BE USED AS A CONSTANT AT MULTIPLE LOCATIONS.
4. INTERIOR WALLS AND PARTITIONS WITHIN EACH UNIT HAVE NOT BEEN SHOWN ON THE PLANS.
5. THE CONFIGURATION OF THESE DRAWINGS IS BASED UPON THE CONSTRUCTION DOCUMENTS PREPARED BY D. SCOTT STARK, ARCHITECT, AND ARE NOT BASED UPON ACTUAL ON-SITE OBSERVATIONS AND MEASUREMENTS.



front elevation



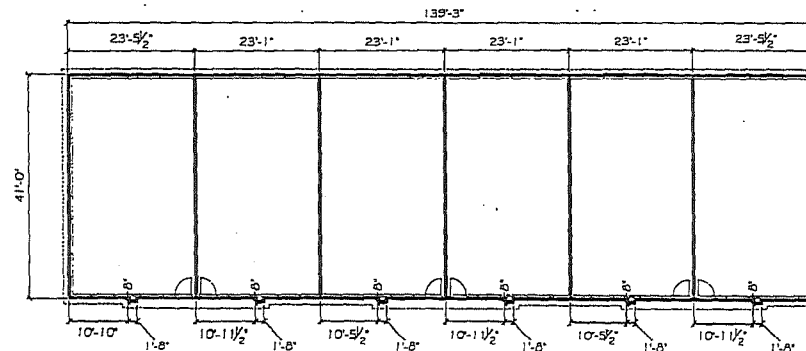
overall floor plan

TYPE 1 BUILDING

Building No. 1, 2, 7 & 8



front elevation



overall floor plan

TYPE 2 BUILDING

Building No. 4 thru 6

CERTIFICATION OF PLANS

This plan contains the information required by the Texas Uniform Condominium Act, and the limited common elements as required by the Act.

IN WITNESS THEREOF, my hand and seal, this the 21 day of August, A.D., 2005.



Richard E. Johnson
Richard E. Johnson
Registered Professional
Land Surveyor #4253

FILED OF RECORD

DATE COUNTY

CLERK'S FILE No.

On Golden Pond Office Condominium

City of Amarillo, Ran

Texas

SCALE: APPROVED BY:

DATE: July 27, 2005

DRAWN BY: JA

FILE NAME:



OJD Engineering, Inc.
Consulting Engineers & Surveyors

805-447-2563
804 East Avenue
Wichita Falls, Texas

EXHIBIT "C"

Attached to and made a part of the Declaration of Condominium Regime For
On Golden Pond Office Condominium, a condominium

Percentage of Allocated Interest to Each Unit in the Regime

Unit Identifying No. Symbol or Address	Percentage or Allocated Interest
<u>Building No. 1:</u>	
7480 Golden Pond Place, Unit 100	10.75%
7480 Golden Pond Place, Unit 200	10.75%
7480 Golden Pond Place, Unit 300	10.75%
7480 Golden Pond Place, Unit 400	10.75%
<u>Building No. 3:</u>	
7460 Golden Pond Place, Unit 100	9.5%
7460 Golden Pond Place, Unit 200	9.5%
7460 Golden Pond Place, Unit 300	9.5%
7460 Golden Pond Place, Unit 400	9.5%
7460 Golden Pond Place, Unit 500	9.5%
7460 Golden Pond Place, Unit 600	9.5%
	<hr/> 100.00%

EXHIBIT D

EASEMENTS, RESTRICTIONS

All easements shown on the plat and dedication of Sleepy Hollow, Unit No. 105, an addition to the City of Amarillo, in Randall County, Texas, recorded under Clerk's File No. 2006002993, Official Public Records of Randall County, Texas, (hereinafter called the plat) including, but not limited to :

Twenty foot public utility easement along the west side of said addition, recorded in Volume 716, Page 275 of the Deed Records of Randall County, Texas.

Twenty foot public utility easement along the north side of said addition, recorded in Volume 1521, Page 231 of the Deed Records of Randall County, Texas.

Five foot public utility easement along the south side of said addition, recorded in Volume 1951, Page 483 of the Deed Records of Randall County, Texas.

Ten foot public utility easement lying adjacent to and north of the immediately preceding easement, in the southwest portion of the property, as dedicated by the plat.

Ten foot east-west Atmos gas easement in the center of the property, as dedicated by the plat.

6.5 foot north-south Atmos gas easement in the north part of the property, as dedicated by the plat.

Ten foot public utility easement along the whole of the northerly and easterly boundary lines of the property, as dedicated by the plat.