

**Master Declaration of Covenants, Conditions, and Restrictions
for
Benton at Magnolia Woods**

This Master Declaration Establishing Covenants, Conditions and Restrictions (this "Declaration") is executed on the 30th day of October, 2024, by:

THE VILLAGE AT MAGNOLIA WOODS, LLC., a Louisiana limited liability company, having its principal place of business in East Baton Rouge Parish, whose address is 1700 City Farm Drive, Baton Rouge, Louisiana 70806, represented by Thomas Gose, Jr., its duly authorized Manager (hereinafter referred to as the "Declarant"), who after being duly sworn did depose and say the following:

Declarant is the owner of certain immovable property situated in East Baton Rouge Parish, Louisiana, to be known as BENTON AT MAGNOLIA WOODS SUBDIVISION (hereafter "Benton at Magnolia Woods"), which is shown on the Final Plat entitled "Revised Final Plat of Benton at Magnolia Woods, Phase One, Lots 7-12, G4, P-2, P-3, P-4, P-5 & P-6" prepared by Matthew S. Estopinal, PLS, dated July 24, 2024, revised October 18, 2024, and recorded on October 18, 2024 as Original 897 Bundle 13338, in the official records of East Baton Rouge Parish, Louisiana.

The Declarant owns certain lots or parcels of land described on Exhibit A to be developed as residential lots in Benton at Magnolia Woods ("Declarant's Residential Property"), and certain lots or parcels of land described on Exhibit B to be developed as commercial lots in Benton at Magnolia Woods ("Declarant's Commercial Property"), collectively the Declarant's Residential Property and the Declarant's Commercial Property are referred to herein as the Declarant's Property".

It is the intent of the Declarant that the property described above shall make up BENTON AT MAGNOLIA WOODS.

Declarant intends to develop a Development on all or a portion of the Property to be known as "**Benton at Magnolia Woods**". Benton at Magnolia Woods shall consist of single-family detached houses, commercial space, including but not limited to retail and office space, and green space.

It is Declarant's intent that land development within Benton at Magnolia Woods be planned to encourage and provide residential, retail and commercial uses and properties.

WITNESSETH:

WHEREAS, The Lots shown on the above referenced Final Plat, and on any future recorded final plat in Benton at Magnolia Woods, together with all Common Areas (as hereinafter defined) and rights of the way to the Common Areas shall be collectively referred to herein as the "Property" and shall be governed by these Restrictions (as hereinafter defined);

WHEREAS, in order to establish, execute and maintain a general and uniform plan governing building standards and specified uses and the improvement, development, sale, use and enjoyment of the

Property, Declarant does hereby declare, adopt and establish certain restrictions and covenants which shall hereafter affect the Property; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of value of the Property and for the maintenance of the Property and improvements thereon, and to this end desires to subject the Property to the restrictions, servitudes, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values, administration, and management of the Property to create an association to which should be delegated and assigned the powers of owning, maintain and administering the Common Areas and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated, under the laws of the State of Louisiana, the Benton at Magnolia Woods Homeowners Association, Inc., a nonprofit corporation, for the purpose of exercising the functions more fully defined in these restrictions and in the articles of incorporation and by-laws of the corporation and to own maintain and manage certain common improvements and property.

NOW, THEREFORE, for and in consideration of the benefit to be derived by the Declarant, and each subsequent owner of the Property, Declarant does hereby declare, adopt, and establish the following restrictions, covenants and servitudes in accordance with Louisiana law.

ARTICLE 1 DEFINITIONS

- a. Additional Property is any immovable property: (a) contiguous with the Declarant's Property (including without limitation any property separated from the Declarant's Property by a public street or body of water), or (b) any portion of which is within a one-half (1/2) mile radius of any portion of the Declarant's Property (including without limitation thereto any property separated from the Declarant's Property by a public street, body of water or other property).
- b. Architectural Review Committee shall mean and refer to the committee which shall be appointed by the Association's Board of Directors to approve exterior and structural improvements, additions, and changes within the Development.
- c. Assessment shall refer to an Owner's share of the common expenses other other charges from time to time assessed against an Owner by the Association in the manner herein provided.
- d. Association shall refer to either the Residential Association or the Commercial Association, as the context requires. "Associations" shall mean, collectively, the Residential Association and the Commercial Association.
- e. Association Articles are the Articles of Incorporation of an Association, each the Residential Association and Commercial Association, together with all amendments and modifications to

same, adopted in accordance with the laws of Louisiana.

- f. Association Board shall mean the board of directors of an Association.
- g. Association Bylaws shall refer to the bylaws of an Association, together with all amendments and modifications to same adopted hereafter in accordance with the laws of Louisiana.
- h. Association Members are the members of an Association. Each Owner is an Association Member of one Association.
- i. Benton at Magnolia Woods shall mean, collectively, the development on the immovable property in East Baton Rouge Parish, Louisiana, described as follows:
 - a. The Residential Property - That portion of Declarant's Property described on Exhibit A together with the Streets, Alleys, Rights of Way, and servitudes, which are included within the described property.
 - b. The Commercial Property - That portion of Declarant's Property described on Exhibit B, together with the Streets, Alleys, Rights of Way, and servitudes, which are included within the described property.
 - c. Any Additional Property which an Association Board at any time in the future declares to be part of Benton at Magnolia Woods.
- j. Benton at Magnolia Woods Council is the council created by the Associations, with the duties and powers given to it.
- k. Building is any building constructed on any Lot.
- l. Capital Improvement refer to those Improvements made to the Common Areas by an Association.
- m. Commercial Association shall refer to Benton at Magnolia Woods Commercial Property Owners Association, Inc., a Louisiana nonprofit corporation, its successors, and assigns. The Commercial Association, whose Members are the Commercial Owners (including Declarant), is responsible for maintaining the Commercial Common Areas in Benton at Magnolia Woods and enforcing the Commercial Declaration.
- n. Commercial Declaration is that certain "Commercial Declaration of Covenants, Conditions, and Restrictions for Benton at Magnolia Woods", as amended.
- o. Common Areas represent all immovable property within Benton at Magnolia Woods designated for the common use and enjoyment of all Owners. "Common Areas" also include any Improvements on that immovable property, all servitudes and personal property for the Owners' common use, and any other property of any type specifically designated as Common Areas.



- p. Declarant refers to The Village at Magnolia Woods, LLC and its successors and assigns.
- q. Declaration shall mean this instrument titled "Master Declaration of Covenants, Conditions, and Restrictions for Benton at Magnolia Woods", together with all exhibits, attachments, and amendments.
- r. Design Guidelines is the document titled "Benton at Magnolia Woods Design Guidelines," together with all amendments and modifications to same adopted hereafter pursuant to the terms hereof as well as any subsequently adopted regulations relating to the architecture and landscape or signage permitted in Benton at Magnolia Woods.
- s. Design Review Procedure is the procedure adopted by Declarant setting forth each Owner's obligations prior to commencement of construction of any Improvement on a Lot.
- t. Development with an initial capital letter, shall mean and refer to the Property and all improvements located or constructed thereon.
- u. Director refers a member of an Association Board.
- v. Dwelling shall refer to any attached or detached complete Building designed or intended for use and occupancy as a residence by a single family.
- w. Governing Documents "Governing Documents" shall mean, collectively, this Declaration, the Residential Declaration, the Commercial Declaration, any Supplemental Declarations, the Design Guidelines, the Rules and Regulations and any other documents referenced in this Declaration.
- x. Improvement(s) shall mean and refer to every structure and all appurtenances thereto of every type and any construction which in any way alters the exterior appearance of any Improvement, but shall not include pipes, lines, cables, meters, equipment and facilities used in connection with water, sewer, drainage, gas, electric, telephone, television or other utilities or service provider in favor of whom a utility or drainage servitude has been expressly established and granted herein.
- y. Lot is the smallest parcel of land which may be separately conveyed, as shown on any recorded final plat in Benton at Magnolia Woods.
- z. Member(s) refers to each member of an Association.
- aa. Owner shall mean the record owner, whether one or more Persons of the fee simple title to any Lot.
- bb. Residential Association shall mean Benton at Magnolia Woods Homeowners Association, Inc., a Louisiana non-profit corporation, its successors and assigns. The Residential Association, whose Members are the Residential Owners (including Declarant), is responsible for maintaining the



Common Areas including the Residential Common Areas, but excluding Commercial Common Areas, in Benton at Magnolia Woods and enforcing this Declaration and the Residential Declaration.

- cc. Residential Declaration shall mean that certain "Residential Declaration of Covenants, Conditions, and Restrictions for Benton at Magnolia Woods", as amended.
- dd. Right of Way refers to mean the area, public or private, which is reserved for general right(s) of passage. Passage for, but not limited to vehicles, vehicle storage, pedestrians/paths/sidewalks, maintenance, drainage, utilities and landscape features. Right of Way widths, public or private, may vary. Right of Way types are reflected in the Design Guidelines and may be amended at the discretion of the Declarant, Village Architect and/or the governing municipality.
- ee. Rules and Regulations are the rules and regulations governing permissive and prohibited uses and behaviors within Benton at Magnolia Woods as adopted by an Association Board pursuant to this Declaration, from time to time by such Association Board, which are applicable to the Association's Members, together with all amendments to same that may thereafter be adopted by such Association Board.
- ff. Street shall refer to any public street or cul-de-sacs within Benton at Magnolia Woods.
- gg. Supplemental Declaration is any declaration which may be recorded by Declarant, or an Association to annex, and include and otherwise incorporate, additional immovable property to and within Benton at Magnolia Woods.
- hh. Tenant means an occupant, lessee, sub-lessee, tenant, sub-tenant, or resident occupying a portion of a Building pursuant to a lease, for residential, office, retail or other commercial purposes. A tenant may be a tenant under the lease of commercial, retail or office space, or other occupant of space in Benton at Magnolia Woods under agreement or arrangement with Declarant.
- ii. Village Architect is a licensed architect and Member of the Architectural Review Committee who provides professional services to the Declarant, Board and Committee.

ARTICLE 2 PURPOSE

Section 2.1 Purpose. Declarant intends by the recording of this Declaration to impose upon Benton at Magnolia Woods covenants, conditions, restrictions and reservations to create a general plan of development for Benton at Magnolia Woods and to provide a flexible and reasonable procedure for the administration, maintenance, preservation, use and enjoyment of Benton at Magnolia Woods consistent with its intended purpose and goals. The Declarant declares that all of Benton at Magnolia Woods shall be held, owned, encumbered, used, managed, leased, occupied, enjoyed, transferred and conveyed by Owners and Tenants subject to the reservations, restrictions, servitudes, uses, privileges, charges, assessments, liens, terms, provisions, conditions



and covenants set forth in this Declaration, all of which shall be covenants running with title to the land within Benton at Magnolia Woods and personal covenants and obligations of, and shall inure to, the benefit of each Owner and Tenant. The purpose of this Declaration is to protect the value, desirability, and appearance of Benton at Magnolia Woods, and to ensure that the property located within Benton at Magnolia Woods is used in a manner consistent with the overall purpose and goals of Benton at Magnolia Woods.

Section 2.2 Binding Effect. Declarant and any and all Owners and Tenants of Benton at Magnolia Woods shall be bound by all of the provisions of this Declaration, including without limitation all reservations, restrictions, servitudes, uses, privileges, assessments, terms, provisions, covenants, charges, liens, privileges and conditions contained herein. Each Owner or Tenant by its ownership, use and occupancy of any property within Benton at Magnolia Woods, agrees to abide by all of the provisions of the Governing Documents. Each contract of sale, option, cash sale, mortgage, deed of trust, lease, sublease, concession, franchise, license, servitude or other instrument with respect to any land and Improvements within the Declarant Property shall be deemed to have been executed, delivered and accepted subject to this Declaration and to have incorporated this Declaration by reference therein, regardless of whether any such instrument specifically incorporates this Declaration by reference therein. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Declarant and the Associations.

Section 2.3 Design Guidelines. The proposed development concept of Benton at Magnolia Woods is contained in the Design Guidelines. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, with the approval of the City of Baton Rouge or East Baton Rouge Parish (as applicable), but without obtaining the consent of any other Owner or Tenant, shall have the right to make changes or modifications to the Design Guidelines.

Section 2.4 Governing Documents. The Governing Documents create a general plan of development for Benton at Magnolia Woods which may be supplemented by additional covenants, restrictions, and reservations applicable to particular areas within Benton at Magnolia Woods. In the event of a conflict between or among the Governing Documents and any such additional covenants or reservations, or the provisions of any other articles of incorporation, bylaws, rules, or policies governing the area within Benton at Magnolia Woods, the Governing Documents shall control. If there is a conflict among the Governing Documents and this Declaration, the provisions of this Declaration shall control. Nothing in this Section shall preclude any Supplemental Declaration, lease, or other recorded covenants applicable to any portion of Benton at Magnolia Woods from containing more restrictive provisions than this Declaration.

Section 2.5 Subject Property. Declarants' Property shall be held transferred, conveyed and occupied subject to this Declaration.

Section 2.6 Annexation of Additional Property.

By Declarant. Declarant shall have the right, but not the obligation, for a period of fifty (50) years from the Effective Date, from time to time in its sole discretion, to declare that any additional portions of Declarant's Property, or any Additional Property, is annexed to, and

included and otherwise incorporated within Benton at Magnolia Woods for the development of a Subsequent Phase or otherwise. Declarant shall also have the right, but not the obligation, for a period of fifty (50) years from the Effective Date, from time to time in its sole discretion, to declare that property which is not part of the Declarant's Property and is not Additional Property, but which Declarant believes to have a reasonable relationship with Benton at Magnolia Woods, be annexed to, and included and otherwise incorporated within, Benton at Magnolia Woods for such purpose. Any immovable property other than Declarants' Property shall not be subject to this Declaration until such time as such property is incorporated pursuant to the terms of a Supplemental Declaration.

By Association Boards. After termination of the Class B Control Period, additional immovable property may be annexed to, and included and otherwise incorporated within, Benton at Magnolia Woods by a majority vote of both Association Boards.

Supplemental Declaration. A Supplemental Declaration annexing to, and including and otherwise incorporating within, Benton at Magnolia Woods, additional immovable property as authorized shall become effective upon being recorded in the conveyance records of the Clerk of Court. The restrictive covenants and conditions contained in this Declaration shall not extend to any such Subsequent Phase except to the extent expressly declared by the Declarant or an Association Board, as applicable, in a Supplemental Declaration. The Supplemental Declaration may modify or add to the provisions of this Declaration as required to reflect the different character of the Additional Property. Additionally, it shall be permissible for the Declarant, or its successors, or an Association Board, as applicable, to declare in a juridical act that any Additional Property is subject to all restrictive covenants and conditions in this Declaration subject to any modifications thereof or additions or deletions thereto that are applicable only to the specific Additional Property in question. It is further expressly declared that any Rules and Regulations may differ in its application to all or any portion of such Additional Property, and the requirements of the Design Guidelines applicable to such Additional Property may be different from those requirements of the Design Guidelines applicable to the property being developed under this Declaration. A Supplemental Declaration may, with approval of the Declarant or the Association Boards, as applicable, (1) define certain Neighborhoods within both newly annexed and previously existing portions of Benton at Magnolia Woods, (2) designate certain Common Areas, whether existing or newly created for the use of certain Neighborhoods, (3) and create and/or modify an assessment scheme by which certain Neighborhoods are assessed separately for Common Areas located within that Neighborhood. However, no such Supplemental Declaration shall deny use of existing Common Areas to those Owners who had such right prior to the recording of the Supplemental Declaration. A Supplemental Declaration may also create Neighborhood advisory councils.

Section 2.7 Platted Lots. No Lots may be subdivided or separated into smaller lots except by the Declarant or with the specific consent of the Architectural Review Committee. No portion of any Lot may be separately conveyed (apart from the whole Lot), except by the Declarant or with the specific consent of the Association upon recommendation to the Architectural Review Committee. This Section, however, shall not prohibit the recording of corrective acts or similar corrective instruments. Declarant shall have the right to record a Supplemental Declaration to modify approved subdivision plats of Benton at Magnolia Woods for the purpose of making



adjustments to Lot boundary lines with consent only of those Owners whose Lot boundaries are to be changed by such Supplemental Declaration.

Section 2.8 Withdrawal of Property. Declarant shall have the right to withdraw any portion of Declarant's Property or Additional Property owned by Declarant from Benton at Magnolia Woods and this Declaration without the consent of any other Person, provided, access to the remaining portions of Benton at Magnolia Woods is preserved. The withdrawal of all or any portion of Declarant's Property or Additional Property from this Declaration shall be affected by the Declarant recording a written instrument setting forth the legal description of the property being withdrawn. If the Declarant does not own the property to be withdrawn, then the written instrument must be signed by the owners of fee title to the property to be withdrawn. Upon the withdrawal of any property from Benton at Magnolia Woods pursuant to this Section, such property shall no longer be subject to any of the covenants, conditions and restrictions set forth herein.

Section 2.9 Disclaimer of Representations and Implied Covenants. Declarant makes no representations or warranties that: (a) Benton at Magnolia Woods will be completed in accordance with the Design Guidelines as they exist on the date this Declaration is recorded; (b) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (c) any property not now subject to this Declaration will be subjected to the provisions hereof; (d) any property subject to this Declaration will not be withdrawn from this Declaration; or (e) the use of any property subject to this Declaration will not be changed in the future. Nothing contained in this Declaration and nothing which may be represented to an Owner or Tenant shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration.

ARTICLE 3 NEIGHBORHOOD DEVELOPMENT

Section 3.1 Neighborhood Planning. Benton at Magnolia Woods is designed to obtain an overall sense of community and connectedness between residents and the development as a whole. The Declarant's Residential Property within Benton at Magnolia Woods incorporates residential housing options, while sharing common characteristics.

ARTICLE 4 COMMON AREAS

Section 4.1 Common Areas. Certain property within Benton at Magnolia Woods called the "Common Areas," is to be owned and maintained by an Association for the benefit of all Owners. As Benton at Magnolia Woods is completed, additional property may be added to the Common Areas.

Section 4.2 Title.



a. Association Ownership. The Common Areas shall be owned by the Residential Association for the benefit of all Owners unless the Common Areas have been designated by Benton at Magnolia Woods Council or the Associations as either Commercial Common Areas or Residential Common Areas, in which case such Common Areas shall be owned by the Residential Association or the Commercial Association, as applicable, for the benefit of such Association's Members.

b. Designation of Common Areas. At any time during the term of this Declaration, Benton at Magnolia Woods Council shall be authorized to recommend the designation of certain Common Areas as Residential Common Areas or Commercial Common Areas. Commercial Common Areas shall be such areas as the Streets, parking areas, sidewalks, landscape areas, common signage, lighting, restrooms, water fountains, garbage containers and other areas benefiting the Commercial Lots. In order for Common Areas to be designated as Commercial Common Areas or Residential Common Areas, each Association Board must adopt the Benton at Magnolia Woods Council's recommendation, by majority vote, to be effective, after which, the Association currently holding title to such Common Areas shall transfer title to the new Association, and all obligations and rights related to such Common Areas shall be transferred to the responsible Association.

c. Additional Common Areas. Declarant may convey to the Residential Association additional Common Areas which the Residential Association shall accept, and following such acceptance, the Residential Association shall be solely responsible for maintenance of such additional Common Areas, unless such Common Areas are subsequently designated as Commercial Common Areas.

d. Dedication. Declarant and the Residential Association shall at all times have the right, without the necessity of consent or approval of any of the Owners, to convey title to and/or dedicate the Streets to the Governmental Authority with jurisdiction to accept such dedication, which is currently understood to be the City of Baton Rouge or the Parish of East Baton Rouge. All other Common Areas may be dedicated to the public by the Residential Association Board upon consent in writing of Association Members representing 75% of the votes in the Residential Association.

e. Title to Common Areas on Dissolution of Association. In the event of the dissolution of an Association, the Common Areas owned by the Association shall, to the extent reasonably possible, be conveyed or transferred to an appropriate public or Governmental Agency or Agencies or to a nonprofit corporation, association, trust or other organization, to be used, in any such event, for the common benefit of Owners for a similar purpose as that which the particular Common Areas was held by the Association.

Section 4.3 Maintenance: Capital Improvements.

a. Generally. Until such time as the Commercial Association accepts certain



Common Areas as Commercial Common Areas, the Residential Association shall have the sole responsibility for the management, control, and improvement of the Common Areas and shall keep such Common Areas attractive, clean and in good repair, including without limitation, the cleanliness of the Streets, which such Streets have been dedicated to a Governmental Authority for public use, maintenance and repair.

b. Capital Improvements. The Residential Association may make Capital Improvements to the Common Areas and may modify the uses of the Common Areas. For example, the Residential Association is authorized to create parking areas within the Common Areas or to add new recreational facilities. Expenses for substantial Capital Improvements must be approved in accordance with the Declaration.

c. Street Regulation and Parking. The Residential Association may adopt Rules and Regulations concerning driving and parking within Benton at Magnolia Woods, and may install no parking signs, and take any other reasonable measures to discourage excessive speed, encourage safe driving and regulate parking on the Streets. The Residential Association may, but shall not be obligated to, hire private security personnel for the purpose of enforcing any driving and parking rules or regulations adopted in accordance with this Section, including imposing fines and hiring private companies to tow and impound vehicles found to be in violation of such rules. The amount of any fines shall be set by the Residential Association. Failure by any Owner to pay any fines in accordance with the Rules and Regulations may result in liens being filed against such Owner's Lot. Neither Declarant nor any Association shall be held liable for any loss or injury resulting from any such enforcement or failure to enforce. Notwithstanding anything to the contrary contained herein, Declarant shall have the right, in its sole discretion, to restrict or prohibit parking in any Common Areas, Street, Right of Way or any other part of Declarant's Property that is not a Lot for any purposes, including but not limited to maintenance, events, or activities. Streets shall not be used for any skateboarding, motorbikes, motorcycles, or motorized recreational vehicles of any type (excluding electric golf carts or vehicles), except for street legal and state-licensed motorcycles for purposes of ingress and egress only. Walking paths shall be used for walking, jogging and bicycling only.

d. Use of Common Areas by Owners. Each Owner shall have a nonexclusive right to use the Common Areas, except to the extent such Common Areas have been designated as either Residential Common Areas or Commercial Common Areas, in which case, only the Residential Owners or the Commercial Owners, respectively, shall have the right to use such Common Areas. The Association charged with the maintenance of the Common Areas shall have the authority to create Rules and Regulations related to the use of the Common Areas, including policies allowing all or portions of the Common Areas to be available to Owners for private events (for which a fee may be charged).

e. Declarant's Rights in Common Areas. Declarant shall have the following rights in the Common Areas:



1. The right to erect and maintain on any part of the Common Areas such signs, temporary buildings, and other structures as Declarant may reasonably deem necessary or proper in connection with the development, construction, promotion, marketing, sale and leasing of real properties within Benton at Magnolia Woods.
 2. The right to use vehicles and equipment on Common Areas for development, construction and promotional services;
 3. The right to permit perspective purchasers of properties within Benton at Magnolia Woods, who are not Owners, to use or enter the Common Areas at reasonable times and in reasonable numbers.
 4. The exclusive right to grant permission for the Common Areas to be photographed, sketched, painted or its image otherwise reproduced for commercial use; and
 5. The right to grant permission for similar reproduction of the exteriors of any other part of the Lots which can be viewed from the Streets, Alleys or Common Areas. Such exteriors may be reproduced without the consent of, or payment to, the Owner of the Lot, but the above right is not intended to prevent any Owner or their architect from granting independent permission for any part of the Lots owned exclusively by that Owner, in which case the consent of the Declarant shall not be required.
- f. Damage or Destruction of Common Areas by Owner. If any Owner or Owner's guests, Tenants, licensees, agents, employees, or members of Owner's family damages any of the Common Areas as a result of negligence or misuse, the Owner hereby authorizes the Residential Association to repair the damage. The cost of repair shall be the responsibility of that Owner and shall become an Individual Lot Assessment payable by the responsible Owner. The Residential Association may, but is not required to, seek compensation for damage from the guest, Tenant, agent, employee, member or other party who caused the damage, in which case the Owner shall be jointly and severally liable with the guest, Tenant, agent, employee, member or other party who caused the damage. Declarant or Association may bar any Owner, Tenant, occupant, or guest from use of a portion of the Common Areas for a period up to twelve (12) months for damages caused to the Common Areas. After three (3) violations, an Owner, Tenant, occupant or guest may be permanently barred by the Declarant or Association.
- g. Limitation of Liability. Neither the Associations nor Declarant make any representation or assume any liability for any loss or injury caused by its maintenance of the Common Areas and Streets.



ARTICLE 5 DECLARANT RIGHTS

Section 5.1 General. The Declarant Rights contained in this ARTICLE 5 are hereby reserved to the Declarant to the maximum extent permitted by law, which may be exercised where applicable anywhere within Benton at Magnolia Woods.

Section 5.2 Special Declarant Rights. The Declarant reserves the following "Declarant Rights", to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within Benton at Magnolia Woods:

- a. Complete Improvements indicated within Benton at Magnolia Woods;
- b. Exercise any Declarant Right reserved in this Declaration; and
- c. Use the Common Areas for the purpose of making Improvements within Benton at Magnolia Woods.
- d. Revocation of dedications.

Section 5.3 Right to Transfer or Assign Declarant Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration may be transferred in whole or in part to other Persons, provided that the transfer shall not reduce any obligation nor enlarge a right beyond that of the Declarant under this Declaration. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records of East Baton Rouge Parish. The foregoing shall not preclude the Declarant from permitting other Persons to exercise, on a one (1) time or limited basis, any right reserved to the Declarant in this Declaration where the Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence the Declarant's consent to such exercise.

Section 5.4 Termination of Responsibility of Declarant. In the event the Declarant shall convey or transfer all of its right, title and interest in and to all of Declarant's Property to any successor Person, then and only in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such successor Persons or entity shall be obligated to perform all such duties and obligations of the Declarant.

Section 5.5 Right to Approve Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, or similar instruments affecting any portion of the Declarant's Property without Declarant's prior written consent, which may be granted or withheld in its sole discretion. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by the Declarant and recorded in the official records of East Baton Rouge Parish.

Section 5.6 Exclusive Right to Use the Name of Benton at Magnolia Woods. No Person shall use the term "Benton at Magnolia Woods" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, an Owner or Tenant may use the term "Benton at Magnolia Woods" in printed or promotional material solely to specify that particular property is located within Benton at Magnolia Woods.



Section 5.7 Declarant's Personal Property. Declarant reserves the right to remove from the Declarant's Property any and all personal property and equipment used in development, marketing and construction of Improvements, whether or not they have become fixtures, provided that Declarant shall mitigate any damage to property in its removal of such fixtures, if any.

Section 5.8 Phasing of Development Rights. No assurances are made by the Declarant regarding the portions Benton at Magnolia Woods where the Declarant will exercise its Declarant Rights or the order in which such portions, or all of the areas, will be developed. The exercise of Development Rights as to some portions of Benton at Magnolia Woods will not obligate the Declarant to exercise them as to other portions of Benton at Magnolia Woods.

Section 5.9 Obligation to Construct Common Areas Improvements. Declarant and/or its assignees shall be responsible for installing and constructing Improvements to the Common Areas in phases and in the sole discretion of Declarant. The construction and installation of Improvements to the Common Areas shall be constructed in a good and workmanlike manner and in accordance with applicable industry standards. Such property shall hereafter be maintained as a Common Areas by the Residential Association [unless dedicated as Commercial Common Areas pursuant to Section 4.2(a)] at its expense for the benefit of the Owners and Tenants of Benton at Magnolia Woods subject to the terms of this Declaration.

Section 5.10 Sales Offices. Notwithstanding any language in this Declaration to the contrary, as long as Declarant or any nominees of Declarant own any immovable property in Benton at Magnolia Woods, Declarant or its nominees shall have the right and privilege to maintain general and sales offices in and about Benton at Magnolia Woods, including model homes and offices, and to have its employees present on the premises to show property within Benton at Magnolia Woods, use the Common Areas and, without limitation, to do any and all other things necessary or appropriate by them to sell or lease Lots, homes, office space or other property, all without charge or contribution to the Associations; provided, however, that such activities shall be carried on in such a manner as will not unreasonably interfere with enjoyment of the Lot(s).

ARTICLE 6 SERVITUDES

Section 6.1 Owners' Servitude of Enjoyment.

- a. **Common Areas.** Every Owner shall have the right and servitude of enjoyment in and to the Common Areas. This servitude shall be a predial servitude appurtenant to and shall pass with title to every Lot. Notwithstanding anything to the contrary stated herein, the Declarant shall have the right to use and reserve the Common Areas for all types of events, including but not limited to social events, athletic and civic events, private parties, and concerts, whether for a fee, contribution or without cost, within its sole discretion unless such area has been previously reserved by an Owner.
- b. **Tenants and Guests.** Any Owner may delegate, subject to the provisions of this Declaration, an Association's Bylaws and Rules and Regulations, such Owner's right



to enjoyment to the Common Areas to the members of his family (if Owner owns a Residential Lot), his Tenants or his guests who are accompanied by the Owner. An Association may adopt rules to prohibit or restrict dual use of the Common Areas' recreational facilities by both an Owner and the Owner's Tenant, except when the Teant is a bona fide guest of the Owner.

Section 6.2 Servitudes in Favor of Declarant and Associations. Declarant, holding title to certain property subject to this Declaration hereby reserves for itself, its successors and assigns, and grants to the Association holding title to any property, including any Common Areas, within Benton at Magnolia Woods the following servitudes, which shall benefit the Declarant, the Association, Benton at Magnolia Woods and all other properties owned, now or in the future by the Declarant which are adjacent to, or contiguous with, Benton at Magnolia Woods (including without limitation thereto Declarant's Property and any portion of such property which may be separated from Benton at Magnolia Woods, by a public road or body of water). Each of the servitudes reserved herein (i) shall be predial servitudes in favor of the Declarant's Property (to the extent not included within Benton at Magnolia Woods), and all other properties owned, now or in the future, by Declarant which are adjacent to, or contiguous with, Benton at Magnolia Woods (including without limitation thereto any portion of such property which may be separated from Benton at Magnolia Woods by a public road or body of water), (ii) shall also be a personal servitude in favor of the Declarant and the Association, and (iii) shall also be a predial servitude for the benefit of the Association as the owner of the Common Areas. The Declarant, at Declarant's expense shall have the right to designate and change from time to time the location of any servitude, provided that such relocation does not materially adversely affect the use of the servitude by an Owner. In the event of such relocation, the Declarant shall provide written notice to the affected Owners accompanied by a map depicting the location of the relocated servitude.

- a. Streets. The Declarant reserves for itself, its successors and assigns a nonexclusive servitude for use of the Streets.
- b. Alleys. Declarant reserves for itself, its successors and assigns, and grants to the Association, the Association Members, and all future Owners, a nonexclusive servitude of passage (for use by vehicles, bicycles and pedestrians) on and across those portions of Benton at Magnolia Woods that are labeled and designated as an "Alley" or "Right of Way" on a Final Plat and on any plat filed in conjunction with any Supplemental Declaration. The Declarant reserves the right to dedicate the Alleys and Rights of Way to an Association.
- c. Servitude for Maintenance. Declarant reserves for itself, its successors and assigns, and grants to the Association a servitude across the exterior portions of all Lots as may be reasonably necessary for the maintenance required hereunder by the Declarant or the Association. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots. Reasonable steps shall be taken to protect such property and damage shall be repaired by the Declarant, the Association, or their respective contractors, as applicable, at their sole expense.
- d. Utility Servitudes.



1. Declarant reserves for itself, its successors and assigns, and grants to the Association, a blanket servitude for ingress, egress, construction, installation, replacement, repair and maintenance of all public and private utility and service systems which servitude shall be upon, across, over, though, and under all Utility Servitudes. These systems include, but are not limited to, water, sewer, irrigation systems, drainage, telephone, electricity, television, cable or communication lines and other equipment. By virtue of this servitude, Declarant may, but is not obligated to, install and maintain facilities and equipment, excavate for such purposes and affix and maintain wires, circuits and conduits; the systems themselves (which shall include all pipes, wires, circuits, cables, conduits, switch boxes and other equipment related to the providing of any public or private utility service) shall be installed within the Utility Servitudes.
2. Declarant or the Association may at any time make a partial assignment to any public or private utility company, or any Governmental Authority, of the servitudes reserved by Declarant, and granted to the Association, in the preceding Subpart (d)(I) whether or not such assignment by Declarant or the Association expressly states, the assignment shall be partial and nonexclusive and both Declarant and the Association shall continue to have the servitude reserved and granted herein, to be used on a nonexclusive basis with each other and with any public or private utility company, or any Governmental Authority to whom such assignment was made. Nothing shall prohibit Declarant or an Association from installing landscaping or streetscaping over, within, or across a Utility Servitude. Neither Declarant, nor the Association, shall have any liability or responsibility to each other or to any Owner for (i) any damages caused by any public or private utility company, or any Governmental Authority, or (ii) for failure to provide any utility services to any Owner or to the Association.
3. To the extent any Governmental Authority, or any public or private utility uses any of the Utility Servitudes within Benton at Magnolia Woods, and/or to the extent that the Declarant, the Association or any assignee of Declarant or the Association (all of whom are collectively referred to as "grantee" in this subparagraph (3)) use or exercise any of the rights granted and reserved under the preceding Subpart, then and in that event:
 - a. whenever reasonably possible, the lines and facilities to be constructed and installed within the Utility Servitudes shall be placed underground,
 - b. each grantee shall respect the reasonable use of the servitudes by the other grantees thereof, and each shall cooperate with the others to the extent necessary to assure the reasonable, mutual use of the Utility Servitudes by all grantees;
 - c. each grantee, after any use of the servitude areas or exercise by such



grantee of the rights herein granted, shall restore the surface of the immovable property subject to the servitude to a condition as close as is reasonably possible to that which existed prior to such use or exercise, provided that such grantee shall not be required to replace, or otherwise repair any Improvements, trees, shrubs or other obstructions which interfere with use of the servitude granted pursuant to preceding Subpart and which are damaged through the reasonable exercise of the servitudes granted pursuant to the preceding Subpart. The Association shall be responsible for maintaining the servitude areas in a well-manicured, properly landscaped manner that does not interfere with the reasonable use of such servitudes.

- d. each grantee who is an assignee of Declarant or the Association, by its use of the Utility Servitudes or exercise of the rights herein granted pursuant to the preceding Subpart d(I), does hereby agree to defend and hold its assignor (whether Declarant or the Association), together with its successors and assigns, harmless from any and all liability arising from any negligence or other fault of the respective grantee in the construction, installation, repair, alteration and maintenance of the said water, sewer, natural gas, electrical, telephone and communications, and cable television lines and facilities pursuant to the servitudes granted under the preceding Subpart; and
 - e. Declarant, the Association, each Governmental Authority, each public utility and each private utility agree that (i) it accepts the right to use the said Utility Servitudes subject to the right of Owners to construct Buildings on Lots which have soffits, eaves, stairs, stoops, balconies and/or facade which encroach on and over the said Utility Servitude by no more than twenty-four (24) inches measured from the boundary of the Utility Servitude nearest to the interior of the Lot going out toward the exterior boundary of the Lot, provided that any such encroachment is at least ten (10) feet above the finished ground elevation in the area of the encroachment, and (ii) it may never request that the Owner remove any such soffits, eaves, stairs, stoops, balconies and/or facade, which encroach on any Utility Servitude consistent with the conditions of the preceding Subpart.
4. Those areas located on Lots and identified as utility niches are not to be considered as part of the Utility Servitude or subject to any servitude in favor of any Governmental Authority or any public or private authority. All such utility niche areas shall be used solely, in the absence of approval from the Architectural Review Committee to the contrary, for the placement of utility meters and, on Alley-Loaded Lots, for the storage of garbage cans and other receptacles for the storage of garbage.
- f. Police Powers. Declarant reserves for itself, its successors and assigns, and grants

to the Association a blanket servitude throughout Benton at Magnolia Woods for private patrol services, and for police powers and services supplied by the local, state and federal governments. Declarant may, at any time, in Declarant's sole and absolute discretion, install security cameras, gates or other security devices as it deems necessary for the protection of Benton at Magnolia Woods. All security measures shall be paid for out of Assessments. Declarant and the Associations may adopt Rules and Regulations providing for security measures, parking and traffic regulations, or such other policing power, which may include enforcement through fines and penalties, with failure to pay such fines permitting the Declarant or the Association to file a lien against any Lot owned by the person found to be in violation of such Rules and Regulations.

- g. Servitude for Emergency Entry. Declarant, the Association or their designee(s) shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, and the Rules and Regulations, which right may be exercised by any member, officer, agent, employee, and/or manager of the Declarant or Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right to enter upon any Lot to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Declarant or the Association but shall not authorize entry into any Building without permission of the Owner.
- h. Servitude During Construction and Sale Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the Rules and Regulations, and any amendments thereto, Declarant reserves a servitude across and the right to construct on the Property or to maintain and carry on upon such portion of the Declarant's Property as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required or convenient for Declarant's development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or for the development, construction or benefit of any neighboring property including, but not limited to: the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Declarant's Property, including, without limitation, any Lot; the right to tie into any portion of the Declarant's Property with Streets, driveways, paths, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Declarant's Property; the right to grant servitudes over, under, in or on the Declarant's Property, including without limitation the Lots, for the benefit



of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Declarant's Property; the right to convert Lots (with the consent of the Owner thereof) to Streets; the right to construct recreational facilities, utilities and other Improvements on Lots owned by Declarant; the right to carry on sales and promotional activities in the Declarant's Property; and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residences, offices or other buildings owned or leased by Declarant as model residences and sales offices without charge.

- i. Reservation and Right of Use for Storm Water Drainage and Retention. Each Lot is hereby subjected to a servitude for the benefit of each other Lot for the purpose of storm water drainage and runoff in accordance with the drainage plan established by Declarant for Benton at Magnolia Woods, which servitude shall include, but shall not be limited to, the right to tie in such storm water drainage facilities at such points and in such manner as approved by Declarant, and for the flow of storm water runoff over Lots to such points and from such points through the storm water drainage facilities into wetlands, ponds, or other retention facilities within or outside Benton at Magnolia Woods. The foregoing servitude shall be subject to any and all restrictions regarding quantity, rate and quality of discharge which Declarant may hereafter impose, or which may be imposed on Lots, Declarant or any Owner or Tenant by any Governmental Authority having jurisdiction.

Section 6.3 Property I.D. Signs.

- a. Declarant hereby excepts and reserves a nonexclusive perpetual servitude for the construction, reconstruction, replacement, operation, maintenance and repair of a sign structure, landscaping and entry features ("Property Identification Signs") over, under, upon and across certain portions of Benton at Magnolia Woods, together with reasonable access over, under, upon, through and across the property to install, replace, maintain, repair and operate such utility lines necessary to provide power to illuminate any of the same.
- b. Panels on certain Property Identification Signs shall be designated by Declarant for the benefit of the Commercial Lots. The right of Owners and occupants of Commercial Lots to place signage on any designated Property Identification Signs shall be determined as part of the review of site plans for development of a Commercial Lot and must be approved by the Architectural Review Committee. The Property Identification Signs shall constitute Commercial Common Areas, unless otherwise designated by the Declarant or the Architectural Review Committee.



ARTICLE 7 GENERAL BUILDING RESTRICTIONS AND DESIGN CODE

7.1 Architectural Approval. To preserve the architectural and aesthetic appearance of the Development and all improvements therein, the Architectural Review Committee shall adopt and promulgate written and graphic design guidelines (the "Design Guidelines") which would achieve harmony of exterior design, location and appearance in relation to surrounding structures and topography. The Design Guidelines shall be maintained in the office of Declarant and of the Association and shall be available to all Owners. In addition, the Architectural Review Committee is authorized to promulgate from time to time as part of the Design Guidelines additional architectural standards and guidelines applicable to the Development.

ARTICLE 8 ARCHITECTURAL REVIEW COMMITTEE

Section 8.1 Architectural Review Committee.

- a. **General.** The Architectural Review Committee is an agency, department or division of the Residential Association.
- b. **Composition.** The Architectural Review Committee shall have either three (3) members or five (5) members; initially, the Architectural Review Committee shall consist of three (3) members. Should the Residential Association Board wish to declare that there shall be an increase in the number of members serving on the Architectural Review Committee, it may do so at a regularly called meeting of the Residential Association Board. The members of the Architectural Review Committee shall be selected as follows:
 1. **Village Architect.** The Village Architect who is appointed shall serve as one (1) member of the Architectural Review Committee.
 2. **Additional Members.** All other members of the Architectural Review Committee shall be appointed by the Declarant during the Class B Control Period. Upon termination of the Class B Control Period, the Residential Association Board shall appoint additional members of the Architectural Review Committee.
- c. **Compensation.** The Village Architect, the other members of the Architectural Review Committee, and other professionals and staff assisting the Architectural Review Committee may be paid reasonable compensation for service on the Architectural Review Committee, as determined from time to time by the Residential Association Board. All members of the Architectural Review Committee shall be reimbursed by the Residential Association for their respective expenses incurred in furtherance of the

authorized activities of the Architectural Review Committee, subject to review and approval by the Residential Association Board.

- d. Conflict of Interest. Nothing herein shall prohibit an approved architect, contractor or design professional from serving on the Architectural Review Committee, provided however, that anyone serving on the Architectural Review Committee must recuse him or herself from reviewing, considering or commenting on and application for which such member is providing professional services.
- e. Cost of Operation. The Residential Association shall be responsible for all reasonable costs of operation of the Architectural Review Committee. Review fees paid in accordance with the Design Review Procedures shall be used by the Residential Association to defray the costs and expenses incurred by the Architectural Review Committee and the fees and compensation paid, if any, to the Village Architect, staff, other professionals and members of the Architectural Review Committee. The Residential Association Board, in its sole discretion, may increase the amount which must be paid as a review fee in conjunction with the submissions of plans pursuant to the Design Review Procedures of the Residential and Commercial Declarations, but in no event shall the said review fee charged in any one (1) calendar year exceed one hundred twenty-five percent (125%) of the review fee charged during the preceding calendar year.
- f. Employees. The Architectural Review Committee may employ personnel or contract with individuals or companies as necessary to assist in the design review process, as authorized pursuant to the budget for the Architectural Review Committee, as established by the Residential Association Board. All such personnel, individuals and/or companies employed or contracted with by the Architectural Review Committee shall be considered as employees and/or independent contractors of the Residential Association.
- g. Rules and Procedures. The Architectural Review Committee is authorized to adopt rules and procedures and to adopt, from time to time, amendments to said rules and procedures for the conduct of its business, consistent with the provisions of this Declaration. Any Owner shall be provided with a copy of such rules and procedures within fifteen (15) days of submission of a written request to the Residential Association Board.

ARTICLE 9 DESIGN REVIEW PROCEDURES

The Design Review Procedures for the construction of any Improvements on any Lot in Benton at Magnolia Woods shall be governed by the Design Review Procedures in the Residential or Commercial Declaration, as applicable. No construction or clearing of a Lot in Benton at

Magnolia Woods may begin until the Design Review Procedures are completed.

ARTICLE 10

GOVERNANCE OF BENTON AT MAGNOLIA WOODS

Section 10.1 Governance by Associations. The Associations are responsible for maintaining Benton at Magnolia Woods and enforcing the Declaration. While Declarant will control the Associations during the development stage, the Owners themselves will be responsible for the continuation of the community through their participation in the Associations. Benton at Magnolia Woods shall be governed by two Associations comprised of the Owners within Benton at Magnolia Woods. The Owners of Commercial Lots shall be Members of the Commercial Association and the Owners of Residential Lots shall be Members of the Residential Association.

Section 10.2. Joint Benton at Magnolia Woods Council. Upon the approval of a majority of each the Residential Association Board and the Commercial Association Board, there shall be created a Benton at Magnolia Woods Council, consisting of six members, with each Association Board appointing three representatives. The Benton at Magnolia Woods Council shall meet quarterly or at such other times as the Council shall decide and shall act as an advisory committee for such issues as may involve the community as a whole. The Benton at Magnolia Woods Council may be delegated responsibilities by an Association upon approval of a majority of the Association's Board, and acceptance by the Benton at Magnolia Woods Council. Such responsibilities may include (by way of example only) the designation of Common Areas as Commercial Common Areas or Residential Common Areas and creating a plan for Capital Improvements.

Section 10.3 Membership. Each Owner, by virtue of acquiring title to a Lot, shall be granted membership in the Association for that Lot Type (residential or commercial). Every Owner shall be an Association Member. Membership shall be appurtenant to and may not be separated from title to any Lot.

Section 10.4 Notice of Status as Association Member. With the exception of those Owners who acquire title to a Lot from the Declarant, each Owner shall, upon acquiring title to a Lot, immediately (a) give written notice to its Association at its registered office that he/she/it has acquired ownership of a Lot, and (b) shall include with such notice a copy of the cash sale, deed or other instrument pursuant to which such Owner acquired title to a Lot. The Association Boards and the Associations shall be entitled to rely on its records for the purpose of determining the identity and address of Association Members, as of the date any notice is to be given, or any decision is to be made. There is no obligation on the part of an Association to check the records of the Clerk of Court at any time for the purpose of determining the identities of Owners. Although an Association may on occasion check the records of the Clerk of Court for the purpose of identifying Owners, such actions shall not be considered as creating any obligation on the part of an Association to check the records of the Clerk of Court at any time thereafter for the purpose of determining the identities of Owners. The records of the Associations, for the purpose of identifying Members entitled to notice of any meeting of such Association's Members, shall consist of (i) the cash sales, deeds or other instruments pursuant to which the Declarant initially



transferred title to Lots, and (ii) those notices given to the Association pursuant to the requirements of the first sentence of this Section 10.4.

Section 10.5 Voting Rights. Each Association shall have two classes of Members; however, for so long as there is a Class B Member of an Association, only the Class B Member shall have voting rights in that Association.

Class A: Class A Members of an Association shall be all Owners of either Residential or Commercial Lots in Benton at Magnolia Woods ("Class A Member"), with the exception of the Declarant for so long as the Declarant remains a Class B Member of an Association. Class A Members of the Residential Association shall be entitled to one vote for each Lot owned in Benton at Magnolia Woods. Class A Members of the Commercial Association shall be entitled to one vote for each one thousand (1,000) square feet of rentable square feet of commercial area owned, or such other allotment of votes as set forth by the Commercial Association. When more than one Person holds an interest in any Lot, all such Persons shall be Members, but the vote for such Lot shall be exercised as they determine. Corporations, limited liability companies, partnerships and other entities shall notify the Association of the natural person who shall be considered an Association Member for the purpose of exercising its vote; such entities shall provide such evidence of appointment and authority as the Association Board may require. In the event the Association agrees to assess two (2) Lots, or parts of Lots, as a single Lot, the Owner(s) of such Lots or portions of Lots, shall have only one (1) vote, with respect to such Lots or portions of Lots.

Class B: Declarant shall be the sole Class B Member of the Residential Association and the Commercial Association (each a "Class B Member"). As the Class B Member, the Declarant shall have the sole voting rights of an Association. The Class B membership shall cease and be converted to Class A membership after the first to occur of the following ("Class B Control Period"):

- (a) thirty (30) years after the date on which the last residential or commercial Lot (as applicable) within Benton at Magnolia Woods that is owned by the Declarant or any of its affiliates is sold to a third-party purchaser; or
- (b) the date as of which the Class B Member elects in writing to become a Class A Member.

Section 10.6 Duties. The Residential Association shall maintain the Common Areas, shall perform all other duties required by this Declaration, and shall enforce the terms of this Declaration. The Associations may acquire, hold, and dispose of tangible and intangible personal property and immovable property. To the extent Common Areas are designated as Commercial Common Areas, the Commercial Association shall be obligated to maintain such areas.

Section 10.7 Additional Powers. To the extent permitted by any Governmental Authorities, the Associations may, but are not obligated to, provide the following services or engage in the following activities: (a) water, sewer, electrical, telephone, cable television or other

utility services, including the supply of irrigation water, and garbage and trash collection and disposal; (b) providing laundry equipment or services; (c) insect and pest control; (d) the improvement of vegetation, fishing and wildlife conditions; (e) pollution and erosion controls; (f) emergency rescue, evacuation or safety equipment; (g) fire protection and prevention; (h) lighting of Streets; (i) security systems and security patrols within Benton at Magnolia Woods; (j) transportation; (k) day care and child care services; (l) landscape maintenance for and within the Common Areas; (m) recreation, sports, craft and cultural programs, including access to fitness facilities within Benton at Magnolia Woods (n) newsletters or other information services; (o) maintenance of yards on Lots (which includes without limitation thereto grass cutting and maintenance of shrubbery and flower beds), (p) maintenance of Utility Servitude areas, public rights-of-way and other public or private properties located within reasonable proximity to Benton at Magnolia Woods if its deterioration would affect the appearance of or access to Benton at Magnolia Woods; and (q) any other service allowed, or not prohibited, by law to be provided by a community association organized as a not-for-profit corporation. To the extent that an Association provides any of the above services or engages in any of the preceding activities, the cost of same shall be billed to such Association's Members as Assessments and, in the discretion of such Association's Board, said costs may be included in either the General Assessment or in the Individual Lot Assessments.

Section 10.8 Contracts. Each Association may contract with the Declarant or any other party for (a) the performance of all or any portion of the management of the Association, (b) its maintenance and repair obligations, or (c) the purpose of providing any services which the Association is authorized to provide as set forth in this ARTICLE 10. The cost of such contract(s) shall be included within the General Assessment, Special Assessment or Individual Lot Assessment as applicable and as determined by the Association's Board. Each Association may require that Owners contract with a third party for certain routine yard maintenance (which includes without limitation thereto grass cutting and maintenance of shrubbery and flower beds), in order to provide a uniform level of care within Benton at Magnolia Woods. An Association may also act as an agent for any Owner who is an Association Member, but is not obligated to, contract for routine maintenance and other services not required to be provided by the Association, the cost of which would be assessed to that Owner as an Individual Lot Assessment; for the purpose of exercising this agency, each Owner does grant an irrevocable power of attorney to the Association of which it is a Member, which is a power coupled with an interest, and the Association in that capacity may act on behalf of, and as such Owner's agent and attorney-in-fact to accomplish the authority intended as set forth in the first part of this sentence. The terms and conditions of all such contracts entered into pursuant to this Section 10.8 shall be at the discretion of each Association Board.

Section 10.9 Power to Engage Employees, Agents and Consultants. The Association Boards shall have the power to hire and discharge employees and agents and to retain and pay for legal, accounting, and other services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of an Association under this Declaration or any applicable Supplemental Declarations.

Section 10.10 Power to Borrow Money and Mortgage Property. The Associations shall have the power to borrow money and, with the approval of Members representing at least a majority

of the voting power of the Association, shall have the power to grant, convey, dedicate or transfer any Common Areas or Improvements thereon as security for such borrowing, subject to provisions elsewhere contained in this Declaration with respect to required approvals or consents to such action.

Section 10.11 Rules and Regulations. The Association Boards may from time to time adopt rules or amend previously adopted Rules and Regulations governing and regulating (a) the operation, use, maintenance, condition, attractiveness, and control of, as well as conduct on and within, the Lots over which the Association governs, the Common Areas designated for use by Owners of such Lots and any facilities or services made available to the Owners of such Lots, and (b) any other matters as to which this Declaration authorizes the adoption of Rules and Regulations by such Association Board. This right shall include without limitation the right to approve rental agents, design professionals, contractors and sub-contractors who do business within Benton at Magnolia Woods. The Rules and Regulations shall take effect immediately upon approval by an Association Board, or at a later date selected by an Association Board. A copy of the Rules and Regulations shall be kept in the registered office of the Association and available for review during its normal business hours each Monday through Friday, except for holidays. Upon acquisition of a Lot, each Owner does, through that acquisition subject to this Declaration, agree and acknowledge that said Owner has received a copy of the Rules and Regulations applicable to such Lot as of that date. As additions, deletions or modifications are adopted with respect to the Rules and Regulations adopted pursuant to this Section 10.11, copies of such additions, deletions or modifications shall be mailed to each Association Member affected thereby at the last known address for said Association Member as shown in the records of the Association. Additional copies of the Rules and Regulations shall be provided to any Association Member upon payment by said Association Member for the cost of reproducing same which is hereby set at fifty cents (\$.50) per page. The Association shall have the nonexclusive right to enforce by any legal remedy, including a suit for damages, the Rules and Regulations against any Owner, Tenant or occupant, after giving of notice and an opportunity for a hearing before the Board, as more specifically described in such Rules and Regulations.

Section 10.12 Community Meetings.

- a. Class B Control Period. The Associations shall be governed by the Declarant as the sole Class B Member for the duration of the Class B Control Period. As the sole voting Member, the decision of the Declarant shall be final in all things concerning the governance of the Associations and no vote shall be required to ratify such decisions.
- b. After Class B Control Period. After the termination of the Class B Control Period the Associations shall be governed by the Class A Members. Community Meetings after the Class B Control Period shall be governed as follows:
- c. When Called. A Community Meeting shall be called annually for the election of Directors, and whenever any action is required by this Declaration to be taken by vote or assent in writing of the Association Members. If requested by at least 10% of the Association Members, a Community Meeting may be called, and any rule or regulation adopted by the Association Board reporting to such Members may be repealed by



majority vote of such Association Members.

- d. Quorum. Voting at a Community Meeting requires presence or proxy of Members representing the percentage of votes established by the Association Board as necessary to transact business. The Association Board may revise this percentage from time to time, but in no event shall the required percentage be less than twenty-five percent (25%) or more than fifty percent (50%), unless otherwise required by statute. Notwithstanding any inference herein to the contrary, until termination of the Class B Control Period, presence of the Class B Member at a Community Meeting shall constitute a quorum of the membership.
- e. Required Vote. If a quorum is present, the affirmative vote of the majority of the Members represented at the meeting and entitled to vote on the subject matter shall be the act of the Members, unless a greater or lesser vote is required by law or the Governing Documents. During the Class B Control Period, the Class B Member is the only Member entitled to vote, and the only Member whose vote is required for approval of a matter requiring Member approval.
- f. Notice. Notice of any meeting of Association Members must be given to the Association Members by personal delivery, electronic mail with read receipt requested or United States mail at least ten (10) days but not more than thirty (30) days before the meeting, except in an emergency when whatever notice is reasonable, in the sole discretion of the Association Board, shall be given. Notice shall be considered as having been duly and properly given, if given to those Persons entitled to notice based on the records of the Association, as described in Section 9.4, as of the date any notice is given of the meeting.
- g. Proxy Voting. At every meeting of the Members, including meetings of Members for the election of the Association Board, any Member having the right to vote shall be entitled to vote in person or by proxy.
- h. Action without Meeting. If permitted by an Association Board, the membership may approve any matter (specifically including the election of Directors) by written consent without a meeting, without prior notice and without a vote; provided, however, such consent shall be required to be given in writing and signed by the percentage of the Association Members as required by the Governing Documents and by Declarant as the Class B Member wherever approval by the Class B Member is required. Consents shall be in accordance with the Association Bylaws and any applicable statutes.

Section 10.13 Association Board. Each Association shall be governed by an Association Board which shall, on the Members' behalf, direct the day-to-day decisions regarding the maintenance of Benton at Magnolia Woods and the enforcement of the Governing Documents.

a. Initial Composition.

- 1. Residential Association Board. The Residential Association Board shall initially



consist of at least three (3) Persons each of whom shall be appointed by the Declarant.

2. Commercial Association Board. The Commercial Association Board shall initially consist of at least three (3) Persons each of whom shall be appointed by the Declarant. When all Commercial Lots have been conveyed to Owners other than Declarant and while Declarant is a Class B Member of the Commercial Association, the Class A membership of the Commercial Association shall be entitled to vote and elect one (1) member of the Commercial Association Board, and the remaining members of the Commercial Association Board shall be selected by the Class B Member of the Commercial Association.
- b. After Class B Termination. Upon termination of the Class B Control Period of an Association, the Association Board shall be elected as provided in the Association's Bylaws.
- c. Compensation. Directors shall receive no compensation for their services unless expressly provided for in resolutions adopted by an Association's Members but may be reimbursed for expenses when approved by the Association Board.

Section 10.14 Association Board Meetings.

- a. Association Board's Responsibility. Except as specifically provided in this Article or elsewhere in this Declaration, each Association Board has been delegated the power, and shall have the authority to act on behalf of said Association under this Declaration, and to make all decisions necessary for the operation of such Association, the enforcement of this Declaration and the care of the Common Areas for which it is responsible. All consents, approvals, elections, and other action authorized herein to be taken or given by the Association shall require only the approval of such Association's Board, with the exception of those decisions that are expressly reserved to Association Members. If a quorum is present at a meeting of the Association Board, all decisions of the Association Board shall be made by a vote of the majority of the Directors present at such meeting, with the exception of those cases where a greater vote is required either by law or by the Association's Articles.
- b. Quorum. Voting at an Association Board meeting requires the presence of at least one-half of the Directors, in person or by telephone conference or, if allowed by state law, by proxy. If not prohibited by law, any action required to be taken by vote of the Association Board may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) by obtaining the written approval of a majority of the Directors.
- c. Record Keeping. Each Association Board shall keep records of all meetings, both of the Association Board and of the Association. For each action taken, the record shall state the vote and a description of the action approved, and, where applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The records of an Association shall be available for



inspection by any Association Member.

Section 10.15 Suspension of Membership. An Association Board may suspend the voting rights of any Member and the right of enjoyment of the Common Areas of any Person who:

- a. fails to take reasonable steps to remedy a violation or breach of the Governing Documents within thirty (30) days after having received notice of same pursuant to the provisions of Section 15.5.
- b. shall be delinquent in the payment of any Assessment levied by an Association pursuant to the provisions of ARTICLE 10 hereof;
- c. shall be in violation of this Declaration or the Rules and Regulations of an Association relating to the use, operation and maintenance of the Common Areas; or
- d. participates in conduct which the Association Board, in its discretion, may deem to be prejudicial to the interests of the Association; provided, however, that there shall be a fair hearing and written notice mailed to the Member(s) setting forth the date of such hearing and the alleged offense.

Any suspension under Subsection (a) or (b) of this Section 10.15 shall be for the balance of the period in which said Member or Person shall remain in violation, breach or default, as aforesaid. In the case of a violation described in Subsection (c) of Section 10.15, the suspension shall comply with the terms of Section 4.3(f). In the case of a violation under Subsection (d) of Section 10.15 the length of the suspension shall be at the discretion of the Association Board. Any suspension of the right of enjoyment of the Common Areas shall not apply to the Members right to use the Streets.

Section 10.16 Amendment of Bylaws. The Association Bylaws may be altered or amended and new bylaws may be adopted by the Association Members at any annual or special meeting of the Members or by the Association Board at any regular or special meeting of the Association Board; provided, however, that, if such action is to be taken at a meeting of the Members, notice of the general nature of the proposed change in the Association Bylaws shall have been given in the notice of meeting. It is provided, however, that if any amended or new bylaws conflict with this Declaration, the procedure for amending the Declaration as set forth in ARTICLE 14 shall control.

Section 10.17 Additional Provisions. Additional provisions concerning the operation of the Associations and the Association Boards are contained in the relevant Association's Articles and the Association Bylaws.

ARTICLE 11 FISCAL AFFAIRS

Section 11.1 Fiscal Year. The fiscal year of each Association shall begin January 1 of each year and end on December 31 of that year, unless an Association Board selects a different



fiscal year.

Section 11.2 Preparation and Approval of Annual Budget for the Associations

- a. Initial Budget. Declarant shall determine the Residential Association's budget for the fiscal year in which the first Residential Lot is conveyed to an Owner other than Declarant. Declarant shall determine the Commercial Association's budget for the fiscal year in which the first Commercial Lot is conveyed to an Owner other than Declarant.
- b. Subsequent Years. Beginning with the initial year and each year thereafter, at least one month before the end of the fiscal year, each Association Board shall, by majority vote, adopt a budget for each Association for the coming year and set the annual General Assessment at a level sufficient to meet the budget. At least two (2) weeks before the fiscal year to which such budget applies, each Association Board shall send to each Association Member as applicable, a copy of the Association's budget (as approved by the Residential Association Board) in reasonably itemized form, which shall include the amount of General Assessments payable by each Association Member. Each Association shall set its own General Assessment.
- c. Approval. If an Association's General Assessment is to be increased to greater than one hundred twenty-five percent (125%) of the previous year's respective Assessment, and at least 10% of the Association Members affected request review within thirty (30) days after the budget is delivered to such Association Members, the Association Board shall call a Community Meeting to present the budget and to answer any questions. After presentation, the budget shall be deemed approved unless the percentage required to transact business is present and the budget is rejected by a majority of the Association Members. If the budget is rejected, the Association Board shall approve a new budget within ten (10) days and send a copy to each Association Member.
- d. Budget Items. The respective budgets for each Association shall estimate total expenses to be incurred by the Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering of all services by the Association as required by this Declaration or properly approved in accordance with this Declaration. The budgets may also include reasonable amounts, as determined by the Association Board for working capital for the Association and for reserves. If the Common Areas are taxed separately from the Lots by the City of Baton Rouge or the Parish of East Baton Rouge, Louisiana, or by any other Governmental Authority with taxing power, for ad valorem property taxes or any other taxes, the Association responsible for upkeep of such Common Areas shall include such taxes as part of such Association's budget and shall pay such taxes. Fees for professional management, accounting services, legal counsel and other professional services performed on behalf of an Association may also be included in the Association's budget.



- e. Reserves. Each Association may build up and maintain reserves for working capital, contingencies and replacement, which shall be included in the Association's budget and collected as part of the annual General Assessment. Extraordinary expenses not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose unless approved by a majority vote of the Association Members. If the reserves held by an Association are inadequate for any reason, including nonpayment of any Association Member's Assessment, such Association's Board may at any time levy and collect an emergency Special Assessment in accordance with the provisions of Section 12.5. If there is an excess of reserves held by an Association at the end of the fiscal year and the Association Board so determines, the excess may be returned on a prorated basis to its Association Members as of the date of such decision to refund such excess of reserves, who are current in payment of all Assessments due the Association or may be used to reduce the following year's Assessments; the Association may rely on its records as identified in Section 10.4 in determining the names and addresses of Association Members as of the date of any refund of excess reserves.
- f. Effect of Failure to Prepare or Adopt Budget. An Association Board's failure or delay in preparing or adopting its respective annual budget for any fiscal year, or review of such budget under this Section 11.2, shall not waive or release an Association Member's obligation to pay General Assessments whenever the amount of such Assessment is finally determined. In the absence of an annual budget for an Association, each Association Member shall continue to pay the General Assessment at the rate established for such Assessment for the previous fiscal period until notified otherwise.
- g. Capital Improvements. Any substantial Capital Improvement to the Common Areas approved by an Association Board must be ratified by a majority of the Association's Class A Members. If the substantial Capital Improvement is approved by the Association's Class A Members, the Association Board shall determine whether it shall be paid from General Assessments or by Special Assessment. A Capital Improvement shall be considered substantial if the cost to the Association of the Improvement is more than six percent (6%) of the Association's annual budget, or if cost of the Improvement, when added to other Capital Improvements for the fiscal year in question, totals more than ten percent (10%) of the Association's annual budget; notwithstanding any inference to the contrary, any repair or replacement of existing Improvements shall not be considered a Capital Improvement. Approval of the Architectural Review Committee is required for all Capital Improvements. This paragraph shall not limit the right of the Declarant to make Improvements to the Common Areas.
- h. Accounts. Reserves held by an Association shall be kept separate from all other funds, either in a single account for all reserves or separated by purpose. All other sums collected by the Association Boards with respect to Assessments and charges of all



types may be commingled into a single fund.

ARTICLE 12 COVENANTS FOR ASSESSMENTS

Section 12.1 Obligation for Assessments. For each Lot owned within Benton at Magnolia Woods, each Owner, by acceptance of a cash sale, deed or other transfer instrument, whether or not it shall be so expressed in such cash sale, deed or other transfer instrument, from time to time, is deemed to covenant and agree to pay to the Association of which it is a Member the following for the purposes provided in this Declaration (to be collectively referred to as "Assessments"):

- a. General Assessments,
- b. Special Assessments,
- c. Individual Lot Assessments

together with interest at the rate of twelve percent (12%) per annum from that date which is ten days after each payment of an Assessment is due, and all costs of collection, if any, including a reasonable attorney's fee whether or not suit is brought or otherwise filed. Upon default in the payment of any one or more installments of any Assessment, an Association Board may accelerate the entire balance of such Assessments, which shall be declared immediately due and payable in full. Notwithstanding the above, the Declarant shall not be obligated to pay the Association for any Assessments, for each Lot owned within Benton at Magnolia Woods.

Section 12.2 Equitable Division of Assessments. General Assessments and Special Assessments for Residential Lots shall be assessed equally among all Lots. Commercial Lots shall be charged General Assessments and Special Assessments according to the proportionate share of usable square feet, such Lot bears to the total number of usable square feet of all commercial Lots. If an Owner combines two (2) Lots or parts of Lots, with appropriate approval to so combine said Lots, and uses them as a single Lot, the applicable Association may (but are not required to) assess them as a single Lot in accordance with regulations consistently applied. It is understood that the Associations are not required to make the same decision on any requests submitted to them pursuant to this Section.

Section 12.3 General Assessments.

a. **Establishment by Association Board.** Each Association Board shall set the date or dates General Assessments become due and may provide for collection and payment of Assessments annually or in monthly, quarterly or semiannual installments.

b. **Date of Commencement.** The annual General Assessments shall begin on the date of conveyance of the first Lot to an Owner other than the Declarant. The initial Assessment on any Lot subject to assessment may be collected at the time title is conveyed to the Owner. During the initial year of ownership, each Owner shall be responsible for the prorated share of the annual General or Special Assessment charged to each Lot, prorated to the



date of closing.

c. Discretion of Association Board. When determining the General Assessment due from each Owner, each Association Board may, in its sole discretion, but is not obligated to, distinguish between Lots on which Buildings have not been constructed, Lots on which Buildings have been constructed and Lots on which Buildings are in the process of being constructed.

d. Initial General Assessment. As of the date this Declaration is recorded, the General Assessment due from the Owner of each Lot on which no Buildings have been constructed and on which no construction is taking place is One Hundred Sixty Five and No/100 dollars (\$165.00) per month, payable in advance for each calendar quarter, and such amount may be collected and received by the applicable Association Board without first establishing a budget. The General Assessment may be thereafter modified without amending this Declaration.

e. Rights of Declarant. So long as the Declarant has the right unilaterally to annex additional property, Declarant may, but shall not be obligated to, reduce the General Assessment for its Association for any fiscal year by payment of a subsidy, which may be either a contribution, an advance against future Assessments due from Declarant, or a loan, in Declarant's sole discretion. Any such subsidy and the nature thereof shall be conspicuously disclosed as a line item in the budget and shall be made known to the Owners. The payment of such subsidy in any year shall under no circumstances obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between an Association and Declarant.

Section 12.4 Special Assessment. In addition to the General Assessment, the Association Boards may levy in any fiscal year a Special Assessment on its Members applicable to that year and not more than the next four (4) succeeding years as follows:

- a. Capital Improvements. Any substantial Capital Improvement which has been approved in accordance with Section 11.2 or any Capital Improvement not required to be approved by an Association's Members may be paid by Special Assessment.
- b. Emergency Assessment. By a two-thirds (2/3) vote, an Association Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense which this Declaration or the law requires the Association to pay (including but not limited to, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).
- c. Discretion of Association Board. When determining the Special Assessment due from each Owner, an Association Board may, in its sole discretion, but is not obligated to, distinguish between Lots on which Buildings have not been constructed, Lots on which Buildings have been constructed and Lots on which



Buildings are in the process of being constructed.

Section 12.5 Individual Lot Assessments. The Association Boards may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot or any other charges designated in this Declaration as an Individual Lot Assessment.

Section 12.6 Capital Contribution Assessment. At the closing and transfer of title of each Lot other than Declarant, the Owner shall contribute an amount equal to \$500.00 or such greater amount as required by Declarant by contract with the Person to whom it may sell a Lot. This contribution shall be used by an Association for the purposes of initial and nonrecurring capital expenses of such Association and for providing initial working capital for the Associations and shall not be considered as a pre-payment of Assessments (including without limitation the General Assessment).

Section 12.7 Effect of Nonpayment of Assessment; Remedies.

- a. **Personal Obligation.** All Assessments, together with any interest and cost of collection when delinquent, including reasonable attorneys' fees whether or not suit is brought (collectively, the "Assessment Charge") shall be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment was levied, and of each subsequent Owner. No Owner may exempt himself from liability for Assessments by non-use of Common Areas, abandonment of his Lot, or any other means. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner and binds the Owner for so long as it owns the Lot. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Declarant to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or Improvements, or from any other action it takes.
- b. **Creation of Lien.** The Assessment Charge shall also be an encumbrance on the land and shall be a continuing lien upon the Lot against which the Assessment Charge is made, which may be enforced upon recording of a claim of lien. This encumbrance and lien, in favor of the Association to which it is owed, shall secure the Assessment Charge which is then due, and which may accrue subsequent to the recordation of the claim of lien and prior to the entry of final judgment of foreclosure. Any subsequent Owner of the Lot shall be deemed to have notice of the Assessment Charge on the land, whether or not a lien has been filed. The Associations may, in their sole discretion, but without any obligation to do so, notify any Person in whose favor a mortgage or other lien has been granted with respect to any Lot whenever an Association files a claim of lien with the Clerk of Court pursuant to this Section 12.7.
- c. **Suit for Payment; Foreclosure of Lien.** An Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge(s), or may foreclose the lien in a manner similar to foreclosure of a mortgage lien, or both.

Each Association, acting on behalf of the Owners who are Members thereof, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

- d. Other Remedies. In addition to the rights described in Subsection (c) above, the Association Boards shall have the right to assess fines up to a maximum of fifty dollars (\$50.00) per day, and to suspend the voting rights and right to use of the Common Areas by an Owner for any period during which any Assessment against said Owner's Lot remains unpaid.

Section 12.10 Certificate of Payment. The treasurer of an Association, upon request of any Owner, shall furnish a certificate signed by a Director stating whether any Assessments are owed by that Owner. Such certificate, when co-signed by the secretary of the relevant Association, may be relied upon by a good faith purchaser or Mortgagee as conclusive evidence of payment of any Assessment therein stated to have been paid.

ARTICLE 13 INSURANCE

Section 13.1 Review of Coverage. The Association Boards shall review limits of coverage for each type of insurance at least once each year.

Section 13.2 Casualty Insurance. The Residential Association Board may obtain and, if additional Common Areas with significant insurable Improvements are added to Benton at Magnolia Woods, shall be required to obtain and maintain casualty insurance on the Common Areas for fire damage. Endorsements for extended coverage, vandalism, malicious mischief, flood and windstorm should be obtained where available at reasonable cost. Coverage shall be in an amount not less than necessary to comply with the coinsurance percentage stipulated in the policy, but in any event not less than eighty percent (80%) of the insurable value (based upon replacement) of the Improvements constructed on the Common Areas. The Commercial Association shall fulfill the obligation to provide casualty insurance under this Section 13.2 for Common designated as Commercial Common Areas.

Section 13.3 Public Liability. The Association Boards may obtain public liability insurance in such limits as the Association Boards may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Common Areas and any water access located on or adjoining Benton at Magnolia Woods. Whenever practicable, such insurance should be issued on a comprehensive liability basis and should contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of an Association, the Association Boards or other Owners.

Section 13.4 Director Liability Insurance. The Association Boards may obtain liability insurance insuring against personal loss for actions taken by Directors and advisory members in the performance of their duties. Such insurance shall be of the type and amount determined by each Association Board in its discretion.



Section 13.5 Other Coverage. The Association Boards shall obtain and maintain workman's compensation insurance if and to the extent necessary to meet the requirements of law, and such other insurance as the Association Board may determine or as may be requested from time to time by a majority vote of the Members.

Section 13.6 Lot Coverage. Each Owner shall obtain casualty insurance for Improvements on his/her/its Lot, naming the Association of which it is a Member as an additional insured. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy, but in any event not less than eighty percent (80%) of the insurable value (based upon replacement) of the Improvements constructed on the Lot. Each Owner by accepting title to a Lot in Benton at Magnolia Woods agrees that each policy of casualty insurance insuring the Lot and any Improvements thereon shall contain a waiver of all subrogation rights as against the Association of which it is a Member.

Section 13.7 Repair and Reconstruction after Fire or Other Casualty.

- a. **Common Areas.** If fire or other casualty damages or destroys any of the Improvements on the Common Areas, the Association Board of the Association controlling the affected Common Areas shall arrange for and supervise the prompt repair and restoration of the Improvements. The Association Board shall obtain funds for such reconstruction first from the insurance proceeds, then from reserves for the repair and replacement of such Improvements, and then from any Special Assessments that may be necessary after exhausting insurance and reserves. The Association Board is under no obligation to replace any damaged Improvements to their previously existing condition and may instead authorize the construction of different types and designs of new Improvements.
- b. **Lot Improvements.** If fire or other casualty damages or destroys a Building or any other Improvements on a Lot, the Owner of that Lot shall immediately proceed to rebuild and restore the Improvements to the condition existing immediately prior to such damage or destruction, unless other plans are approved by the Architectural Review Committee. In doing so, the Owner shall comply with the provisions of this Declaration. If the Owner fails to clean and secure a Lot within thirty (30) days after a casualty, the Association of which such Owner is a Member may remove debris, raze or remove portions of damaged structures and perform any other clean up the Association deems necessary to make the Lot safe and attractive. The cost of such clean-up shall be assessed to the Owner as an Individual Lot Assessment pursuant to Section 12.5.

**ARTICLE 14
AMENDMENT AND TERMINATION**

Section 14.1 Amendment.

- a. **By Declarant.** Notwithstanding any statement or inference to the contrary in this

Declaration, Declarant specifically reserves and have the absolute and unconditional right, throughout the Class B Control Period, to amend this Declaration without the consent or joinder of any party. This right includes, but is in no way limited to, the right to amend this Declaration without consent (i) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association or any other generally recognized institution involved in the guarantee or purchase and sale of mortgages, (ii) to conform to the requirements of institutional mortgage lenders or title insurance companies, (iii) to clarify the Declaration's provisions or correct errors, (iv) to subject additional property to this Declaration or in connection with Supplemental Declarations or to withdraw property from Benton at Magnolia Woods, (v) to change a name pursuant to this Declaration, or (vi) to conform to applicable law or the zoning requirements for Benton at Magnolia Woods.

b. By Members. Except as stated elsewhere in this Declaration (including without limitation in Subparts (a) and (f) of this Section 14.1), after termination of the Class B Control Period, this Declaration may be amended at any time by the affirmative vote of two-thirds of all Owners; such amendment shall be evidenced by an instrument signed by the president or vice- president and secretary of the Residential Association, certifying approval in writing by two- thirds (2/3) of the total votes. Notwithstanding the foregoing, the Commercial Declaration and any other provision of this Declaration that solely affects Commercial Owners (including but not limited to the right to impose any charge, fee or Assessment against the Commercial Owners) may only be amended by the affirmative vote of two-thirds of the Commercial Owners; such amendment shall be evidenced by an instrument signed by the president or vice-president and secretary of the Commercial Association, certifying approval in writing by two-thirds (2/3) of the total votes. Rights reserved to the Declarant may not be amended without the specific consent of the Declarant. It is expressly stated that any Supplemental Declaration may, without any approval of the Owners, add, modify or otherwise supplement provisions of this Declaration, as originally filed or as same may be subsequently amended, and which will effectively (1) change (whether through increasing, lessening or otherwise) any or all restrictions on use, which would otherwise be applicable to property added to Benton at Magnolia Woods pursuant to a Supplemental Declaration, but such changes shall only relate to and affect the Lots and other property added to Benton at Magnolia Woods pursuant to the Supplemental Declaration, and (2) change (whether through increasing, lessening or otherwise) any or all building restrictions and/or other covenants, which would otherwise be applicable to property added to Benton at Magnolia Woods pursuant to a Supplemental Declaration including without limitation all such building restrictions and/or other covenants contained in the Residential or Commercial Declaration, as applicable, in the Design Guidelines and in the Landscape Regulations, but such changes shall only relate to and affect the Lots and other property added to Benton at Magnolia Woods pursuant to the Supplemental Declaration. Notwithstanding any inference herein to the contrary, no Supplemental Declaration shall be deemed to have modified any provisions of this Declaration applicable to Lots included within Benton at Magnolia Woods prior to the filing of such Supplemental Declaration unless Supplemental Declaration expressly states such



intention and unless the Supplemental Declaration also qualifies as an amendment to this Declaration pursuant to this Subpart (b), or the following Subpart (c).

c. Limitation. Whenever any action described in this Declaration requires approval of greater than two-thirds (2/3) of the total votes of an Association's Members, amendment of that provision shall require the same percentage vote as would be required to accomplish that action directly.

d. Recording. Any amendment to this Declaration shall take effect upon recording in the public records.

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

f. Supplemental Declarations and Amendments to Design Guidelines. Notwithstanding any inference herein to the contrary, (i) Declarant and the Associations shall always have the right to make Supplemental Declarations without the consent of any Association Members, (ii) the Architectural Review Committee shall always have the right to amend and modify the Design Guidelines as provided in the Residential and Commercial Declarations, without the consent of Association Members, (iii) the Association Boards shall always have the right to adopt and have filed amendments to this Declaration which contain modifications of the Design Guidelines adopted by the Architectural Review Committee pursuant to Residential and Commercial Declarations, and (iv) the rights of Declarant and the Associations set forth in Subpart (b) of this Section 14.1, and in this Subpart (f), may not be withdrawn or otherwise modified without the consent of Declarant and the Association Boards.

Section 14.2 Duration: Termination. The covenants and restrictions contained in this Declaration shall run with and bind Benton at Magnolia Woods and shall inure to the benefit of and be enforceable by Declarant, the Associations, and all Owners within Benton at Magnolia Woods, their respective legal representatives, heirs, successors or assigns for thirty (30) years, and shall be automatically extended for each succeeding ten (10) year period unless an instrument signed by Owners representing ninety percent (90%) of the votes of the Owners shall have been recorded, agreeing to terminate the Declaration as of a specified date. This Declaration may also



be terminated in any of the following ways:

- a. Unanimous Consent. The Declaration may be terminated at any time by the consent in writing of all Owners.
- b. Dedication of Common Areas. Notwithstanding anything in this Declaration to the contrary, the Declarant or the Association which is responsible for the maintenance of such Common Areas shall at all times have the right, without the necessity of consent or approval of any of the Owners, to convey title to and/or dedicate the Streets and other Common Areas to the Governmental Authority with jurisdiction to accept such dedication, which is currently understood to be the City of Baton Rouge or the Parish of East Baton Rouge.
- c. Rerecording. Unless this Declaration is terminated, the Association shall rerecord this Declaration or other notice of its terms at intervals, if any, necessary under Louisiana law to preserve its effect.
- d. Condemnation. If all or part of the Common Areas is taken or condemned by any Governmental Authority having the power of eminent domain, all compensation and damages shall be paid to the Association charged with maintenance of such Common Areas. The Association Board shall have the right to act on behalf of such Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

ARTICLE 15 GENERAL PROVISIONS

Section 15.1 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of Benton at Magnolia Woods. An italicized portion at the beginning of an Article is intended to state the purposes for the provisions that follow and may be used as an aid to interpretation. However, if the italicized portion conflicts with the operative provision, the operative provision shall govern. The captions of the various articles and provisions in this Declaration are for convenience only and in no way define, limit, or describe the scope of this Declaration, or the intent of any provision hereof. All references to particular Sections or Articles shall, except as otherwise expressly stated, be deemed to be references to those particular Sections or Articles of this Declaration.

Section 15.2 Conflicts with Governmental Authorities. In some instances, requirements of a Governmental Authority may be more or less restrictive than the provisions of this Declaration. In the event a conflict exists between any such governmental requirement and any requirement of this Declaration, the most restrictive requirement shall prevail, except in circumstances where compliance with a more restrictive provision of this Declaration would result in a violation of mandatory applicable requirements of a Governmental Authority, in which event those governmental requirements shall apply. Compliance with mandatory requirements of



a Governmental Authority will not result in a breach of this Declaration even though such compliance may result in non-compliance with the provisions of this Declaration.

Section 15.3 Mandatory Dispute Resolution Procedures and Rules.

- a. Application. The following Dispute Resolution Procedure ("Dispute Resolution Procedure") shall apply to and be mandatory for any and all claims or disputes that deal solely with the applicability and enforceability of this Declaration as a whole, and, (a) do not involve a party's application for immediate injunctive or similar relief; or (b) in the case of an Owner, do not involve a situation that constitutes an immediate, material threat to its relationship with any Mortgagee (each a "Claim").
- b. Notice. Any Party ("Claimant") having a Claim against or dispute with any other party(ies) (whether one or more, "Respondent") shall provide notice to each Respondent in writing ("MDR Notice"), stating plainly and concisely:
1. the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
 2. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
 3. Claimant's proposed remedy (in the case of a refusal to provide consent, the City/Parish shall provide what change should be made to achieve consent); and
 4. that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.
- c. Negotiation. The parties shall make every reasonable effort to meet "in person" and confer for the purpose of resolving the Claim by good faith negotiation for a period of not less than fifteen (15) days.
- d. Termination of Negotiations. If the parties do not resolve the Claim through negotiation ("Termination of Negotiations"), the Claimant shall have sixty (60) days following the Termination of Negotiation to submit the Claim to a facilitated minitrial in accordance with Subsection (e) below or the Claim shall be deemed abandoned, and the Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge the Respondent from any liability to Persons not a party to the foregoing proceedings.
- e. Facilitated Minitrial.
1. After the Termination of Negotiations, Claimant may elect to require the parties to



participate in a facilitated minitrial with notice to the other party.

2. A minitrial shall be presented before a neutral facilitator and one representative of each party. At least three (3) days before the minitrial, each side will prepare and distribute to the representatives and the facilitator a written summary of its position, which may not exceed ten (10) double-spaced pages. At the minitrial, each side will have not more than three (3) hours to make an oral presentation, and thereafter the representatives will attempt in good faith and with the aid of the facilitator to resolve the dispute. Efforts to reach a settlement will continue until at least fifteen (15) days have passed since the minitrial and one party provides notice of its desire to proceed to non-binding arbitration under Subsection (f) below.
3. The minitrial will be conducted according to the AAA Mini-Trial Procedures then in effect. The parties will attempt to agree on a mutually accepted facilitator. If the parties cannot agree within ten (10) days of the request to conduct a minitrial, the AAA will be asked to select the facilitator. The parties will equally share any fees charged by the facilitator or AAA.
- f. Arbitration. After the conclusion of the facilitated minitrial, either party may elect to require the parties to participate in nonbinding arbitration in accordance with the rules and procedures of the American Arbitration Association ("AAA") rules for non-binding arbitration. Except for issues related to force majeure, unless the parties agree in writing to be bound by the arbitrator's decision ("Award") prior to the commencement of arbitration proceedings under the foregoing paragraph, any party shall be free to reject the Award and sue in court of competent jurisdiction or initiate proceedings before any appropriate administrative tribunal.
- g. Allocation of Costs of Resolving Claims Prior to Litigation. Each party shall bear all of its own costs incurred prior to and during the proceedings described above, including the fees of its attorney or other representative. Each party shall share equally all charges rendered by the facilitator or arbitrator.

Section 15.4 No Waiver. The waiver by any party of a breach of any provision of the Governing Documents shall not operate or be construed as a waiver of any subsequent breach of that provision by any party. Failure to enforce any provision of this Declaration, the Design Guidelines or the Rules and Regulations, shall not be deemed a waiver of the right to do so at any time thereafter and shall not operate or be construed as a waiver of the right to enforce such provision at a later date, even if under identical circumstances and even if involving the same parties.

Section 15.5 Notices. Any notice required to be sent to the Owner shall be deemed to have been properly sent when mailed, postage prepaid, or hand delivered to the Lot and, if different, to the last known address of the Person who appears as Owner as that address is stated on the records of the Associations, as described in Section 10.4, at the time of the mailing. The date of mailing shall be deemed the date of giving notice, except that the date of actual receipt shall be the date of the giving of any notice of change of address.



Section 15.6 Rights of Mortgagees.

a. Special Rights of First Mortgagees. Any Mortgagee owning a First Mortgage encumbering any Lot, upon filing a written request therefor with the applicable Association, shall be entitled to: (a) written notice from the Association of any default by the mortgagor or Owner of such Lot in the performance of such mortgagor's or Owner's obligations under this Declaration, any Supplemental Declaration, the Association Articles, Association Bylaws or the Rules and Regulations, which default is not cured within sixty (60) days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours, including the right to examine current copies of this Declaration, any Supplemental Declaration, the Association Articles, Association Bylaws or the Rules and Regulations, and the books, records and financial statements of the Association; (c) receive a copy of the financial statements within ninety (90) days following the end of any fiscal year of the Association; (d) receive written notice of abandonment or termination of the Association or of any plan of abandonment or termination contemplated under this Declaration, any Supplemental Declaration, the Association Articles or the Association Bylaws; (e) receive thirty (30) days' written notice prior to the effective date of termination of any agreement for professional management of the Association or the Common Areas following a decision of the Association to assume self-management of the Common Areas; (f) written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (g) written notice of any proposed action which would require the consent of Mortgagees; and (h) immediate written notice as soon as the Association receives notice or otherwise learns of any damage to the Common Areas or such Lot if the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000) and as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Areas or such Lot. The number of Mortgagees who have filed such written request may be certified by the secretary of the Association by written instrument and such certification shall be conclusively presumed to be correct.

b. Priority of First Mortgage Over Assessments. Each Mortgagee who obtains title to the Lot encumbered by a First Mortgage, pursuant to the remedies provided in such First Mortgage, by judicial foreclosure or by deed or assignment in lieu of foreclosure, shall take title to such Lot free and clear of all claims for unpaid Assessments or charges against such Lot which accrued prior to the time such Mortgagee acquires title to such Lot, other than allocation of any deficiency prorated among all Members of the Association.

Section 15.7 Gender and Number. The use of the masculine gender in this Declaration shall be deemed to include the feminine, or neuter, and the singular shall include the plural, wherever the context so requires.

Section 15.8 Law to Govern. This Declaration shall be construed in accordance with the laws of the State of Louisiana.

Section 15.9 Validity. If any one or more of the provisions (or any part thereof) of this



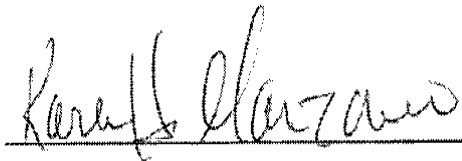
Declaration, the Design Guidelines or of the Rules and Regulations, shall be held invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions (or any part thereof) shall not in any way be affected or impaired thereby and the balance of the Governing Documents shall remain in full force and effect. If any provision, or subpart of a provision, of this Declaration is for any reason and at any time determined to be invalid, illegal or unenforceable (a) it is expressly stated that such determination shall be applicable only to the parties involved in the arbitration or court proceeding in which such determination has been rendered, and then only to the particular facts and circumstances presented to the arbitrator(s) or court; (b) where a provision is determined to be invalid, illegal or unenforceable because it is determined to be excessively broad, the court or arbitrator(s) making that determination are requested and authorized, where reasonably possible, to reform the subject provision by declaring it limited and reduced to make it compatible with applicable law; and (c) the court or arbitrator(s) making that determination are requested and authorized, where reasonably possible, to declare that provision or subpart reformed so as to eliminate only the portion of same which is determined to be invalid, illegal or otherwise unenforceable, so that the balance of said provision is allowed to remain in full force and effect.


Section 15.10 Owner's Acceptance. By accepting title to any of the Lots or other property included now, or in the future, within Benton at Magnolia Woods, each Owner agrees that he accepts title to said Lot or other property subject to the terms, provisions and acknowledges of: (a) this Declaration, (b) the Residential or Commercial Declaration, as applicable, (c) the Design Guidelines, (d) any Rules and Regulations that may be subsequently adopted, from time to time, by the Associations or the Association Boards, and all modifications thereto, and (e) any future amendments to this Declaration and/or the Design Guidelines adopted pursuant to the terms and provisions of this Declaration.

Signatures on following page

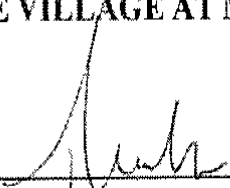
IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year first above written, before the undersigned Notary Public, and the undersigned competent witnesses, after due reading of the whole.

WITNESSES:


Print Name: Karen H. Manzano


Print Name: DALLAS HENDERSON

DECLARANT:

THE VILLAGE AT MAGNOLIA WOODS, LLC
By: 
Thomas Gose, Jr., Manager



NOTARY PUBLIC
Name: D. Brian Cohn
Notary I.D. #: 28000

EXHIBIT A – RESIDENTIAL PROPERTY

Lots 7 through 12, inclusive, Tract P-2, Tract P-3, Tract P-5, Tract P-6, and common area Lot G4, as shown on that certain “Revised Final Plat of Benton at Magnolia Woods, Phase One, Lots 7-12, G4, P-2, P-3, P-4, P-5 & P-6” prepared by Matthew S. Estopinal, PLS, dated July 24, 2024, revised October 18, 2024, and recorded on October 18, 2024 as Original 897 Bundle 13338, in the official records of East Baton Rouge Parish, Louisiana.

EXHIBIT B – COMMERCIAL PROPERTY

Tract P-4 as shown on that certain “Revised Final Plat of Benton at Magnolia Woods, Phase One, Lots 7-12, G4, P-2, P-3, P-4, P-5 & P-6” prepared by Matthew S. Estopinal, PLS, dated July 24, 2024, revised October 18, 2024, and recorded on October 18, 2024 as Original 897 Bundle 13338, in the official records of East Baton Rouge Parish, Louisiana.