

**DECLARATION OF THE
COVENANTS AND RESTRICTIONS OF
LA CONCHA ESTATES**

This Declaration is made on this the 26TH day of April, 2002 by FACEY ENTERPRISES, N.V., LTD., a Delaware Corporation (the "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of the following described real property situated in Nueces County, Texas (the "Property"):

Being 28.074 acres out of a 43.50 acre tract described in Deed Recorded in volume 1889, Page 137, Deed Records of Nueces County, Texas; and also being out of the J.W. Waterbury Survey No. 596, Land Scrip 167, Abstract 408, Mustang Island, Nueces County, Texas.

WHEREAS, Declarant has subdivided the Property into Lots and Blocks with dedicated streets, easements, and utility facilities as set forth on the plat of La Concha Estates recorded in Volume 61, Pages 197 & 198, of the Map Records of Nueces County, Texas, (the "Subdivision"); and

WHEREAS, it is the desire of the Declarant to place restrictions, covenants, conditions, stipulations and reservations upon and against the Property, **SAVE AND EXCEPT: Lot 1, Block 2, and Lot 1, Block 3, of LA CONCHA ESTATES as shown on the plat of the Subdivision**, in order to establish a uniform plan for its development, improvements, and sale, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of designated lots within the Subdivision;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon the Subdivision all of the following reservations, easements, restrictions, covenants, conditions, charges, assessments, and liens which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Property, and shall hereafter be subject to the jurisdiction and assessments of the La Concha Estates Owners' Association, Inc., **SAVE AND EXCEPT: Lot 1, Block 2, and Lot 1, Block 3, of LA CONCHA ESTATES as shown on the plat of the Subdivision**. Those two lots

are hereby expressly excluded from the restrictions, covenants, conditions, stipulations and reservations contained within this Declaration.

ARTICLE I.
Scope of Restrictions

The following terms and restrictions are hereby established, adopted, and imposed upon Lots Two (2) through Twelve (12), Block 2; and Lots One (1) through Forty (40), Block One (1) within the Subdivision so as to create and carrying out the uniform plan for the improvement and sale of the lots as a high quality restricted residential subdivision. All of the terms and restrictions shall constitute covenants running with the land, shall be binding upon and inure to the benefit of Declarant, its successors and assigns, and upon all persons acquiring property in the Subdivision whether by purchase, descent, devise, gift or otherwise. Each Grantee, by acquiring any lot within the Subdivision shall be deemed to have agreed, covenanted to abide by, and perform the terms and restrictions of this Declaration, and each Owner's deed to the Owners lot(s) shall be conclusively held to have been executed, delivered and accepted subject to all of the following terms and restrictions.

ARTICLE II.
Definitions

1.1 Certain Definitions. The following words, when used in this Declaration, in any amendment or supplementary declaration, or the attached By-laws (unless the context shall otherwise clearly indicate or prohibit), shall have the following meanings:

- a. "ACA" means the Architectural Control Authority which is vested with the power to approve or deny application for proposed original construction or modification of a Improvement on any lot.
- b. "Assessment" means a regular assessment, special assessment, or other amount a Owner is required to pay the Association.
- c. "Association" means the Texas non-profit corporation organized under the name of the "La Concha Estates Owners' Association, Inc.," that will administer the operation and management of the Subdivision.
- d. "Board" means the Board of Directors of the La Concha Estates Owners Association, Inc., which shall be the governing body of the Association.

- e. "Bylaws" means the Association's Bylaws attached as Exhibit "A" and incorporated herein by reference.
- f. "Common Area" means all real property owned by the Association for the common use and enjoyment of the Owners.
- g. "Common Expense Liability" means and includes all expenditures made and liabilities incurred by the Association for maintenance, repair, operation, management, and administration of the Common Area; all expenses declared common expenses by this Declaration or the Bylaws; and all sums lawfully assessed by the Association against the Owners, including all amounts assessed against a Owner for repairs made by the Association as a result of a Owner's failure to maintain the Owner's Lot or as a fine against such Owner.
- h. "Declaration" means this particular instrument together with any and all amendments or supplements.
- i. "Disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a Lot but does not include the transfer or release of a security interest.
- j. "Improvement" means any thing or device, including:
 - (1) any building, garage, porch, shed, greenhouse, bathhouse, cabana, coop, cage, covered or uncovered patio, swimming pool, play apparatus, clothesline, fence, curbing, paving, wall, hedge more than two feet in height, signboard, or any temporary or permanent change to any Lot,
 - (2) any excavation, fill, ditch, diversion dam, or other thing or device which affects or alters the flow of any water in any natural or artificial stream, wash or drainage channel from, upon, or across any Lot,
 - (3) any enclosure or receptacle for the concealment, collection and/or disposition of refuse, and
 - (4) any change in the grade of any Lot more than three (3) inches from that existing at the time the original plans for construction were approved by the ACA.
- k. "Owner" means the record title owner (whether one or more persons or entities) of the surface estate of a lot located within the Subdivision, and all improvements on the lot. It shall not include those having such interests merely as security for the performance of an obligation, and shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure of a lien on a lot held by such mortgagee.

- l. "Plat" means the plat of the La Concha Estates recorded in Volume 61, Pages 197 & 198 of the Map Records of Nueces County, Texas.
- m. "Regular Assessment" means an assessment, a charge, a fee, or dues that each Owner is required to pay to the Association on a regular basis and that is designated for use by the Association for the benefit of the Subdivision as provided in this Declaration.
- n. "Restrictions" means the restrictions and covenants contained in this Declaration, the By-laws, and the Plat, including any amendments thereto or replats.
- o. "Special Assessments" means an assessment, a charge, a fee, or dues, other than a Regular Assessment, that each Owner of a lot located in the Subdivision is required to pay to the Association, according to the procedures set forth in this Declaration and the By-laws, for:
 - (1) defraying, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, unexpected repair, or replacement of a capital improvement in the Common Area, including the necessary fixtures and personal property related to the Common Area;
 - (2) maintenance and improvement of Common Areas; or
 - (3) other purposes approved by the Association according to this Declaration or the By-laws.
- p. "Special Declarant Rights" means rights reserved for the benefit of the Declarant to exercise the following:
 - (1) the option to maintain models, sales staff, management, and offices within the Subdivision, together with signs advertising the project,
 - (2) the use of the Common Area as an easement for the purpose of making and maintaining improvements,
 - (3) the power to appoint or remove any officer or board member of the Association prior to the first meeting of the Board,
 - (3) the power to re-plat any of the Lots owned by the Declarant into larger or smaller Lot sizes,
 - (4) the power to grant private non-exclusive pedestrian beach access easements over and across the following:
 - i. Lot 38, Bk. 1, of La Concha Estates,

ii. Lot 37, Bk. 1, of La Concha Estates, and

iii. the 50' Beach Private Access Easement over and across Lot 40, Bk. 1, of La Concha Estates as shown on the Plat.

The non-exclusive pedestrian beach access easements shall be for the benefit of the owners of Lot 1, Bk. 2, and Lot 1, Bk. 3 of La Concha Estates and the owners of La Concha Estates II. Should this Special Declarant Right be exercised it shall be in consideration of the grantees covenant to share and pay to the Association the grantee's pro-rata share of the cost of the real property taxes, insurance, and maintenance of the non-exclusive pedestrian beach access easement. The non-exclusive pedestrian beach access easement grantees' covenant to share and pay to the Association the grantee's pro-rata share of the expense of the easement shall be secured by a lien in favor of the Association which, if foreclosed in the same manner as the Association's lien granted by the Owners to secure assessments, shall extinguish the grantee's easement rights.

(5) make the Subdivision and the Association part of a larger Subdivision so as to include La Concha Estates II, **which is planned but need not be developed or dedicated.**

q. "Subdivision" means the La Concha Estates Subdivision as shown on the Plat, and may include La Concha Estates II, **which is planned but need not be developed or dedicated.**

ARTICLE III. Architectural Control

3.1 The power to approve or deny applications for any original construction or modification of any existing building, structure, Improvement or landscape design is vested exclusively in the Board. The Board may delegate their authority to approve or deny applications for construction to an Architectural Control Authority (the "ACA", whether the Board or its duly appointed representative). If an ACA is appointed by the Board its member(s) shall be appointed and/or removed by a majority vote of the Board. The Board's duly appointed ACA representative may be a single engineer, architect, planner, individual, or committee composed of Board members and consultants. The ACA shall be entitled to reasonable compensation for the ACA's services as set forth in below paragraph 3.7 for reviewing submitted plans.

3.2 The purpose of the Improvement Standards contained within Article IV of

this Declaration (the "Improvement Standards) is to provide for uniform standards of construction so as to enhance the aesthetic properties and structural soundness of the Improvements within the Subdivision. The decisions of the ACA in approving or denying construction applications shall be in strict compliance with the terms of the Improvement Standards unless a construction variance is granted by the Association. A construction variance:

- a. may only be granted by a majority vote of the Owners at a meeting of the Association at which a quorum is present,
- c. at least 10 days prior to the meeting the Owners must be given a written copy of the proposed construction variance and a general outline as to why it is necessary,
- d. the ACA may endorse, oppose, or abstain from any discussion regarding the construction variance at the meeting of the Owners, and
- b. must be granted on a case by case bases to deal with unforeseeable construction issues that if allowed will not conflict with the overall scheme for the development of the Subdivision.

Unless a variance has been granted, the judgment of the ACA rejecting any plans shall be final, conclusive, binding, and presumed reasonable unless a court determines by final judgment that the exercise of the ACA's discretionary authority was arbitrary, capricious, or discriminatory.

3.3 No building, fence, wall, structure, or Improvement may be constructed within the Subdivision; nor shall any exterior addition, change, alteration or demolition of any existing Improvement be made; nor shall any landscaping on any lot that would affect drainage or utility easements be undertaken until the plans (in duplicate) showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in writing by the ACA. All plans for any anticipated construction shall:

- a. designate, by reference to the Plat, the lot for which the plans are submitted,
- b. include an exterior elevation plan showing the nature, exterior color scheme, kind, shape, height and location of all proposed construction,

- c. include a site plan drawn to one-quarter inch scale showing the location and size of all existing and proposed improvements, including the lot's front, rear, and side setbacks, and all existing and proposed parking spaces, driveways and sidewalks,
- d. include reasonably detailed construction plans of the proposed improvements,
- e. include a description of the materials (including color and finish) to be incorporated in the proposed improvements
- f. the contractors name, address, and phone and cell number(s), and
- g. supplemented by such other information as may be requested by the ACA.

3.4 The ACA shall reject plans whenever the ACA's determines that the following circumstances exists:

- a. the plans, or any Improvement or use covered by the plans are not in compliance with the provisions of this Declaration, or
- b. the plans do not contain enough information to allow the ACA to determine whether the Improvement or use covered by the plans will either comply or violate the provisions of this Declaration.

3.5 All plans must be submitted in duplicate to the ACA for approval. Plans that have been approved will be marked "APPROVED" and signed by a member of the ACA. Plans that have not been approved will be marked "REJECTED" and signed by a member of the ACA. Whether approved or rejected, one marked set will be retained by the ACA and the other returned to the Owner. Any proposed modification or change to a set of plans which have already been approved must be re-submitted (in duplicate) to the ACA for re-approval before the proposed modification or change may be incorporated into the proposed Improvements. The re-submitted plans will be marked "APPROVED" or "REJECTED" and signed by a member of the ACA in the same manner as the original set of submitted plans.

3.6 In the event the ACA fails to approve or reject any plans within thirty (30) days after they have been submitted, and if no request has been made by the ACA for supplements to the plan or if no suit to enjoin the construction is commenced prior to the

completion of such construction, then approval of the plans shall be presumed. No construction of the proposed Improvements may be commenced until the plans for the Improvements or use have been approved. Construction of any Improvements prior to the approval of the plans shall result in a fine to the Owner of \$500.00 a day for each day the violation continues. All fines will be assessed by the Board as provided in the Bylaws.

3.7 The fee of the ACA shall be paid by the Owner who is submitting the plans to the ACA. A deposit fee shall be paid at the time of the submission, and the final fee will be paid upon final approval. Failure to pay the deposit or final fee shall result in the automatic rejection of the plans notwithstanding anything in this Article to the contrary. The Board and the ACA shall agree on the amount of the deposit and the ACA's fee prior to the Board appointment of the ACA. Once a fee structure has been agreed upon it can not be changed without the Board's prior written approval. The ACA's fee may be based upon (a.) the time involved in reviewing the plans; (b.) a flat fee based upon the type of improvement; or (c.) a combination of both.

3.8 The ACA has the authority to determine whether plans for anticipated Improvements and use are in compliance with the provisions of this Declaration, and no construction shall be commenced until a complete set of the plans has been marked "APPROVED" and signed by a member of the ACA. No act, failure to act, or refusal to act on the part of the ACA, however, to challenge a real or threatened violation of this Declaration shall be deemed to constitute a waiver of any right or duty of the ACA at any time or from time to time thereafter to initiate such action and/or enforce compliance with this Declaration. The ACA may act or refuse to act in any real or threatened violation of this Declaration, all in the exercise of its sole discretion.

3.9 The Declarant will appoint the ACA until the first meeting of the Association, at which meeting the Declarant shall transfer the power of appointment to the elected Board. All rights and obligations of Declarant to appoint the ACA shall then terminate, and shall thereafter be vested in the Board.

3.10 It shall be the prerogative of the Association to grant variations to the Improvement Standards of this Declaration, not the ACA. Variations from the Improvement Restrictions may be granted only by a majority vote, either in person or by proxy, of the Owners at a meeting of the Association at which a quorum is present. It is the desire and hope of the Declarant that variations shall be granted when and only when the proposed Improvements or use do not in any way detract from the appearance of any lot within the Subdivision, and are not in any way detrimental to the welfare or to the property of the Owners.

3.11 The ACA or its agents may at any reasonable time enter upon and inspect the exterior and exterior of any construction site without being deemed to have committed any trespass or any wrongful act if such entry is to ascertain whether the maintenance, construction, or alteration of the Improvements or proposed use thereof are in compliance with the provisions of this Declaration.

3.12 The ACA may from time to time adopt certain reasonable building and construction standards that supplement but do not conflict with the Improvement Standards. In the event the ACA adopts supplemental standards it will make copies available to the Owners upon request. The ACA may modify or amend its building standards from time to time as the ACA deems appropriate to accommodate the needs of the Subdivision. Should the supplemental standards appear to conflict with or change the Improvement Standards as provided in this Declaration, then they must be approved by a majority vote, either in person or by proxy, of the Owners at a meeting of the Association at which a quorum is present before they may be enforced.

3.13 Neither the Board or the ACA will be liable to any Owner for claimed damages, loss or prejudice suffered or claimed on account of: (i) the approval or disapproval of any plans; (ii) the construction or performance of any work, whether or not in compliance with the plans or the Improvement Standards; or (iii) the development of any Lot within the Subdivision.

ARTICLE IV.
Improvement Standards

4.1 Residential. No lot in the Subdivision shall be used other than for single family residential purposes and no building shall be designed for, or erected, placed occupied, altered, or permitted to remain on any lot or portion thereof other than a single family residence with a attached or detached garage. No trailer, mobile home, motor home, modular home, geodesic dome, tent, shack, lean-to or other outbuilding may be placed, moved, erected or permitted to remain on any lot in the subdivision, temporarily or permanently by either an Owner or any guest of an Owner. No structure shall be occupied or used as a residence, temporarily or permanently, until a certificate of occupancy has been issued by the City of Corpus Christi, Nueces County, Texas.

4.2 Building Location. All Improvements shall comply with the building and set back lines:

- a. shown on the Plat,
- b. required by the City of Corpus Christi, Nueces County, Texas building Code, and
- c. required by La Concha Large Scale Dune Construction Permit as adopted by the Nueces County Commissioner's Court on August 23, 1995.

4.3 Fences or Walls. No fence or wall shall be erected, placed, altered or maintained nearer to the front lot line than the minimum building setback line shown on the Plat, or in any event, forward of the front wall line of the main building. No fence or wall shall be erected, placed, altered or maintained on any lot in such a manner that it will affect or impair the Subdivision's drainage areas. No perimeter privacy fence shall exceed six (6) feet in height.

4.4 Minimum Floor Area and Garage Space. The single family dwelling constructed on the Owner's Lot must have not less than one thousand eight hundred (1,800') square feet of air conditioned space, exclusive of the garage, attic, open or screened porches, terraces, patios, driveways. All driveways and parking areas must be concrete (no asphalt driveways or parking areas are allowed). An enclosed two (2)

car garage whether attached or detached must be constructed simultaneously with the single family dwelling. Garage doors may not exceed 14 feet (14') in height.

4.5 Minimum Grade Elevation and Foundation and Maximum Number of Stories.

The minimum grade elevation for all the floors of each structure within a lot must be approved the ACA so as to be reasonably compatible with the other Improvements within the Subdivision, but in no event will any dwelling, garage, or appurtenant building exceed three (3) stories in height.

4.6 Exterior Walls. The finishes of the exterior of walls of each main dwelling shall be of natural stone, stucco, brick, fibrous cement board, or any combination thereof. Materials used on the main building or any outbuilding and their color must be in harmony with the general architectural design of the main building. No vinyl or asbestos siding may be used for walls or trim.

4.7 Roof. The pitch of the roof of each main building and all out buildings, either attached or detached, shall not be less than 5/12 pitch. All roofs must be constructed out of the following materials:

- a. 320 pound weight self-sealing composition roof;
- b. tile; or
- c. "gavaloom" or its equivalent.

4.8 Topographic Alterations. Under no circumstances shall any Owner be permitted to alter the topographic conditions of a Lot in any way that would alter the natural drainage patterns.

4.9 Completion Time. Any house, structure, or improvement commenced on any lot must be completed within nine (9) months after the beginning of construction, or within such additional time as may be approved in writing by the ACA. No partially completed house, structure or improvement of any type shall be permitted to remain on

a Lot beyond the time approved by the ACA.

4.10 Plumbing and Sanitary Facilities. The plumbing in all Improvements shall comply with all local building codes, laws, rules and regulations of governmental authorities having and asserting jurisdiction over the Subdivision. No outside toilet shall be installed or maintained on any Lot, and all plumbing shall be connected to the sanitary sewer system.

4.11 Electrical. All sources of electrical energy shall comply with all local building codes, laws, rules, and regulations of governmental authorities having and asserting jurisdiction over the Subdivision.

4.12 Water. Each residential dwelling constructed on any lot shall be connected to the water system installed in the subdivision. As each residence is completed and occupied in the Subdivision, each Owner shall be required to purchase water from the owner of the water system within the Subdivision, and shall pay a reasonable amount for the use of such water as the owner of such water system shall from time to time charge. No individual water wells shall be allowed on any lot.

4.13 Hunting and Pet Restrictions. No hunting shall be allowed in the Subdivision and any discharge of firearms is strictly prohibited. No livestock other than household pets may be kept or raised on any lot, and no household pets shall be bred or maintained on any lot for commercial purposes or for sale. All pets must be kept within the Owner's lot except when the Owner or the Owner's guest has the pet on a leash and is walking the pet. Any pet unattended is a nuisance and may be impounded at the pet owner's expense. Any pet excretion left by a pet outdoors must be picked up immediately and disposed of in a sanitary manner by the person walking the pet.

4.14 Nuisances. No noxious nor offensive, unlawful, or immoral activity shall be carried on upon any lot, nor shall anything be done thereon which shall become an annoyance or nuisance. The period of time from 10:00 p.m. to 7:00 a.m. each day shall

be observed as the quiet hours of the Subdivision. Discharge of air pistols, rifles, firearms or fireworks within the Subdivision is prohibited at all times.

4.15 Appearance of Lots. No Lot shall be used or maintained:

- a. As a dumping ground for rubbish or any other material. Trash, garbage or other waste or materials shall not be kept except in sanitary containers, which containers shall be kept in the garage or a storage box attached to the main structure on the lot. No incinerators shall be kept within the Subdivision or on any lot. Equipment for the storage or disposal of waste material shall be kept in a clean and sanitary condition and all such items shall be maintained in a neat and attractive manner.
- b. No boats, trailers, campers, recreational vehicles, vehicles in a non-operating condition, motor coaches, or fifth wheels shall be permitted to remain on any Lot or on the street adjacent to any Lot for more than a total of 14 days in any calendar year. Boats, trailers, campers, recreational vehicles, and vehicles in a non-operational condition may remain longer if they are housed in the Lot Owner's garage. No vehicle maintenance may be performed outside of the Lot Owner's garage.
- c. No outside radio antennas, television antennas, satellite disks in excess of twenty four inches (24") in diameter, or any other type of electronic device for the transmission or reception of electronic signals are allowed.
- d. No clotheslines or mailboxes are permitted.
- e. A Owner may not install and must remove any outdoor lighting and patio lights which the Board determines to be a nuisance to adjoining Owners, unsightly, or not in keeping with the aesthetics of the Subdivision.

4.16 Signs. No sign of any kind shall be kept or displayed to the public view (except by the Declarant or its assigns) other than name and street number signs or other than one professional sign no larger than five square feet square advertising the property for sale.

4.17 Drilling and Excavations. No oil well drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on a lot; nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any lot. No derrick or other structure designed for use in boring for oil, natural gas or other minerals

shall be erected, maintained or permitted on any lot.

4.18 Grass and Weeds. Each Owner shall keep all grass and vegetation trimmed or cut so that the same shall remain in a neat, orderly, and attractive condition. In the event a Owner fails to maintain their lot in a neat and orderly manner, the Board and/or the ACA shall have the right, through its agents and employees, to enter upon and perform all necessary yard maintenance. The cost of any yard maintenance performed by the Board or the ACA shall be at the expense of Owner, and shall be secured by a lien against the lot which may be enforced in the same manner as provided in Article VIII, below.

4.20 Shrubs and Trees. No shrub or tree planting which obstructs sight lines between two feet and six feet above the roadway shall be planted or permitted to remain on any corner lot within the triangular area formed by the curb lines of such intersecting streets and a line connecting such curb line at points twenty-five feet from their intersection or, in the case of rounded corner, from the intersection of the curb lines as extended. The same sight line limitations shall apply on any lot within ten feet of the intersection of a street curb line and the edge of a driveway or alley. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a height of more than six feet above ground level.

4.21 Swimming Pools and Hot Tubs. Swimming pools and hot tubs shall be permitted provided (i) that the construction and maintenance of the swimming pool and/or hot tub is in compliance with all applicable health and safety codes, laws, rules, regulations and ordinances of state, county and/or municipal authorities asserting jurisdiction; and (ii) that all swimming pools and hot tubs are completely enclosed with a suitable fence of a minimum height of six (6') feet.

4.22 Dune Conservation Area. No activity or use may violate the covenants, conditions and restrictions of the Declaration Creating the Dune Conservation Area recorded under Clerk's file Number 2002019772 on 4-29-02 in the Official Real

Property records of Nueces County, Texas.

4.23 Fines for Violation of any Improvement Standards. In addition to the remedies provided by law and in equity, Violation of any Improvements Standards may result in a fine to the Owner of \$500.00 a day for each day the violation continues. All fines will be assessed by the Board as provided in the Bylaws.

ARTICLE V.
Easements and Utilities

Declarant reserves a right-of-way and easement for utilities and drainage, including without limitation, electric, water, telephone, sewage, television and/or communication, internet, and data cables, optics, or wiring conduit, as are shown on the Plat or as may be designated by the ACA by appropriate instrument filed for record in Nueces County, Texas. Declarant further reserves an easement under, on and above all road and streets in the subdivision for the purpose of installing, operating and maintaining any and all improvements in connection with the utility and drainage easements. Declarant reserves the right to assign, dedicate, and/or convey any utility or drainage easements and any rights and interests therein at any time and from time to time in Declarant's sole discretion may be necessary for the development of the Subdivision. This Declaration shall never be deemed to obligate Declarant to furnish, construct or maintain or cause to be furnished, constructed or maintained any road, street, utility and/or drainage easement and/or any improvements on any of the foregoing. Within these easements, no structure, fences, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels. The easements include, without limitation, the right of ingress and egress thereon at reasonable times to such easements for construction, maintenance, repair and replacement purposes, without consent or approval of the lot Owner and without compensation or redress to the Owner. Any improvements placed in the easement area by the Owner may be removed and replaced by the Declarant or by any

person or entity having any right, title or interest in the easement, including any public authority or utility company, all without liability to and at the expense of the owner of the lot. The easement area of each lot and all improvements thereon shall be maintained continuously by the Owner of the lot, except for those improvements which are owned by the owner of the easement, such as the applicable public authority or utility company. Owners shall have no cause or action against Declarant, its successors, assigns, employees and/or agents, or any utility company, water district, cable company, or other authorized entity using any of the easements within the Subdivision either at law or in equity, for any damage caused by the installing, operating, maintaining, repairing and/or replacing the improvements within the easement. All utility connections including but not limited to telephone, electric power service, and cable service shall be underground and no owner of any lot shall erect any poles on any lot for aerial erection of power or telephone lines.

ARTICLE VI.

Re-plats

No lot within the Subdivision may be divided by the Owner into smaller lots, whether for lease, sale or rental purposes, provided however, that the Owner(s) of three (3) or more lots may re-plat them for the purpose of establishing a larger lot or lots. Any re-plat of three (3) or more lots shall not affect or be deemed to reduce the maintenance assessments provided for in Article VII. Declarant reserves the right at any time and from time to time to re-plat any or all lots which are then owned by Declarant into smaller lots if and to the extent Declarant deems such action desirable even though Declarant shall have previously sold and/or contracted to sell other lots within the Subdivision.

ARTICLE VII.

Property Owners' Association

The Association shall be formed when twenty four (24) of the lots within the Subdivision have been conveyed by warranty deed to the purchasers thereof, unless sooner formed at the discretion of the Declarant. All lot Owners, including the Declarant shall be members of the Association, and shall be entitled to one (1) vote for each lot

owned. When more than one (1) person holds an interest in any lot, all such persons shall be members, but there shall be only one (1) vote permitted for each lot owned. The Association shall be a corporation organized under the Texas Non-Profit Corporation Act. The association shall have a Board of Directors (the "Board") and shall act and vote in accordance with its procedures established by this Declaration and in accordance with the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any lot. By acceptance of a deed to any lot or lots within the Subdivision, the Owner shall become bound by the terms, provisions and covenants of this Declaration, and shall be a member of the Association. The Declarant shall be a member of the Association for so long as Declarant owns any lot or lots within the Subdivision, including any lots which are subject to option contracts, and shall be entitled to one (1) vote for each lot owned.

ARTICLE VIII.

Covenant for Maintenance Assessments

8.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned by it within the subdivision, hereby covenants, and each Owner of any lot in the subdivision covenants and agrees and is deemed to covenant and agreed to pay to the Association, when formed: (1) Regular Assessments, and (2) Special Assessments as provided in the By-laws. All Regular Assessments and Special Assessments, together with interest, costs and reasonable attorney's fees, shall, to the full extent permitted by law, be a charge on the Owner's lot, and shall be a continuing lien upon the property against which each such assessment is made. Each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of lot at the time when the assessment fell due.

8.2 Purpose of Assessments. The Regular Assessments shall be used exclusively to promote the recreation, health, safety and welfare of the Owners in the Subdivision and for the improvement and maintenance of any Common Area and Common Area improvements or any property dedicated to the public within the Subdivision which is not being maintained by a public entity. Special Assessments shall be used to defraying, in whole or in part, the cost, whether incurred before or after the

assessment, of any construction or reconstruction, unexpected repair, or replacement of a capital improvement in the Common Area, including the necessary fixtures and personal property related to the Common Area; maintenance and improvement of Common Areas; or other purposes approved by the Association according to the By-laws.

8.3 Uniform Rate of Assessment. Both Regular Assessments and Special Assessments must be fixed at a uniform rate for all lots and paid by the Owners on a pro-rata basis regardless of the size of the Owner(s) lots.

8.4 Effect of Non-payment of Assessments. A Regular Assessment or Special Assessment by the Association is a personal obligation and a personal liability of the Owner of the lot at the time of the assessment, and is secured by a continuing lien on the Owner's lot and on the rents, insurance proceeds, condemnation and any and all other proceeds received by the Owner relating to the lot. By acquiring a Deed to a lot, the Owner hereby grants to the Association a power of sale in connection with and in enforcement of the Association's lien. The priority and the Association's foreclosure of its lien shall be as follows:

- a. The Association's lien for assessments is created by recordation of this Declaration which shall constitute record notice and perfection of the lien. No other recordation of a lien or notice of lien is required.
- b. The Board may from time to time appoint, by a majority vote, an officer, agent, trustee, or attorney for the Association to exercise the power of sale on behalf of the Association.
- c. The power of sale and foreclosure of the Association's lien shall be exercised as provided by Section 51.002 of the Texas Property Code. The debt secured by the Association's lien for delinquent assessments shall include all interest on the delinquent assessment at the highest rate permitted by law, together with costs of collection and all reasonable attorney's fees incurred as a result of its enforcement.
- d. The Association's lien shall be prior to other liens, except that the Association's lien shall be subordinate, secondary, and inferior to: (1) all valid liens for taxes or special assessments levied by the city, county, and the state, or any political subdivision or special district thereof; and (2) valid liens securing amounts due or to become due under any purchase money

vendor's lien, mechanic's and materialman's construction contracts and deeds of trust, and/or home equity deed of trust filed for record prior to the date payment of such assessment for common expenses or fines become due.

- e. The Association shall have power to bid at the foreclosure sale, and to acquire, hold, lease, mortgage and convey the lot together with its improvements on behalf of Association. Any unpaid balance of the Assessment remaining after application of the foreclosure proceeds shall be deemed to be common expenses collectible on a pro-rata basis from all of the Owners, including the purchaser at the foreclosure sale.

8.5 Non-Abatement of Assessments. No diminution or abatement of assessments shall be allowed or claimed for inconveniences or discomfort arising from the making of repairs or improvements within the Common Area or to any property dedicated to the public within the Subdivision which is not being maintained by a public entity, or from any action taken to comply with any law, ordinance or order of a governmental authority.

ARTICLE IX. Maintenance

9.1 Delegation of Maintenance. The Association, acting through its Board, shall improve, maintain, repair and otherwise care for the Common Area and the Common Area Improvements and any property dedicated to the public within the Subdivision which is not being maintained by a public entity. The Owner of each lot is responsible for the maintenance, repair, and care of the Owner's lot and all improvements.

9.2 Willful or Negligent Acts. In the event that the need for maintenance or repair is caused through the willful or negligent act of any Owner, his family, guests or invitees, the ACA, or the Association shall add the cost of such maintenance, as a Special Assessment, to the Regular Assessment of the Owner.

ARTICLE X Right to Grant Easements and Annex Additional Properties

10.1 Adding and Removing Property Owned by Declarant. Declarant reserves as a Special Declarant Right, and shall at all times have the right, without the consent or

approval of any other Owner to:

- a. the power to grant a private non-exclusive pedestrian beach access easement over and across the following:
 - i. Lot 38, Bk. 1, of La Concha Estates,
 - ii. Lot 37, Bk. 1, of La Concha Estates, and
 - iii. the 50' Beach Private Access Easement over and across Lot 40, Bk. 1, of La Concha Estates as shown on the Plat.

The non-exclusive pedestrian beach access easements will be for the benefit of the owners of Lot 1, Bk. 2, and Lot 1, Bk. 3 of La Concha Estates and the owners of La Concha Estates II. Should this Special Declarant Right be exercised it shall be in consideration of the grantees covenant to share and pay to the Association the grantee's pro-rata share of the cost of the real property taxes, insurance, and maintenance of the easement. Each of the grantees' covenant to share and pay to the Association the grantee's pro-rata share of the expense of the easements shall be secured by a lien in favor of the Association which, if foreclosed in the same manner as the Association's lien granted by the Owners for assessments, shall extinguish the grantees' easement rights.

(Special Note) The Plat shows the words "Beach Access" on Lot 37, Block 1. Those words were placed on the Plat to show the Special Declarant's Right to locate a non-exclusive private beach access easement over Lot 37, Block 1, the exact location of which was not known at the time of the Platting. Once the easement has been located one of the following options shall occur: either (a.) the Association shall release the remainder of Lot 37, Block 1 to the Declarant, or (b.) the Declarant shall convey the remainder of Lot 37, Block 1 to the Association reserving the located easement.

- b. make the Declarant's real property located adjacent to the Subdivision (proposed as La Concha Estates Phase II) subject to this Declaration. **However, the Declarant makes no representation or warranty that any such adjacent properties will be annexed to this Declaration or that the development of such adjacent properties will be developed in accordance within the scheme of this Declaration.**

10.2 Procedure for Granting Easements and Adding Property Owned by Declarant. The easements and additions authorized pursuant to Article 10.1(a.) and 10.1(b.) above shall be effectuated by the recordation in the Deed Records of Nueces County, Texas, of a Supplementary Declaration of Covenants and Restrictions (the "Supplementary Declaration").

10.3 Contents of Supplementary Declaration. The Supplementary Declaration shall describe the easement granted and/or properties to be annexed to the scheme of this Declaration; shall state that it is being made pursuant to the terms of this Declaration for the purpose of granting the easement and/or annexing the property described in the Supplementary Declaration to the scheme of the Declaration and extending the jurisdiction of the Association to cover the property so described in such Supplementary Declaration; and shall be signed only by the Declarant or the assignee of the Special Declarant's Right to grant the easement and/or add the Property. The Supplementary Declaration may contain such complementary additions and modifications to the Declaration as may be necessary to reflect the different character, if any, of the real property being annexed provided the additions are not inconsistent with the general scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants and agreements established by this Declaration with regard to any real property subject to the Declaration prior to the recordation of such Supplementary Declaration.

ARTICLE XI.
General Provisions

11.1 Term. This Declaration shall be binding upon all owners of such lots and all persons claiming under them for a period of twenty (20) years from the date this Declaration is filed of record in the Deed Records of Nueces County, Texas; after which time these Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument of termination in writing, executed and acknowledged by seventy-five (75%) percent of the Owners of the lots in the Subdivision is filed of record in the Deed Records of Nueces County, Texas.

11.2 Amendments. This Declaration and any or all of the conditions set out herein may be amended by an instrument of amendment meeting the following requirements:

- a. The amendment must be in writing, must be approved by seventy-five percent (75%) of all of the lot Owners, (excluding lien holders, contract purchasers, and the owners of mineral interests), and may be adopted as follows:

1. by a written ballot that states the substance of the amendment and specifies the date by which a ballot must be received to be counted, or
 2. at a meeting of the Association if written notice of the meeting stating the purpose of the meeting is delivered to each Owner, or
 3. by door-to-door circulation of a petition by the Association or a person authorized by the Association, or
 4. by a combination of the three methods described above.
- b. The adoption of the amendment by multiple Owners of a lot must comply with the voting procedures as set forth in the by-laws, but such adoption by multiple Owners may be reflected by the signature of a single co-owner, and
 - c. Once approved, the Amendment must be filed as a dedicatory instrument in the official real property records of Nueces County, Texas.
 - d. Any variance to the Improvement Standards granted to an Owner by the Association shall not constitute an Amendment to this Declaration. Variances are deemed necessary by the Declarant so as to provide Owners with a viable method of dealing with unforeseeable construction issues. Variances should only be granted on a case by case basis, and then only if they do not conflict with the overall scheme for the development of the Subdivision. Accordingly, variances as provided in Article III and Article IV shall be exempt from the 75% Owner approval requirement for Amendments to this Declaration.

11.3 Correction and/or Compliance Amendments. Notwithstanding anything in paragraph 11.2 above to the contrary the Declarant reserves and shall at all times have the right to amend this Declaration without the consent of any other person for the purpose of correcting any typographical or other error in this Declaration. The Board may amend this Declaration for the limited purpose of complying with United States Department of Housing and Urban Development or United States Department of Veterans Affairs requirements for subdivision property to qualify for insured or guaranteed mortgage loan if:

- a. The Amendment indicates that it is adopted under authority of this paragraph of the Declaration by specifically referencing this paragraph,
- b. The Amendment must be signed by a majority of the Board members, and
- c. Once approved, the Amendment must be filed as a dedicatory instrument in the official real property records of Nueces County, Texas.

11.4 Severability. In the event that any of the provisions of this Declaration conflict with any other provisions hereof and/or with the applicable Plat, the more restrictive provisions shall govern. If any paragraph, section, sentence, clause or

phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that the remaining paragraphs, sections, sentences, clauses and phrases would have been imposed and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses and phrases shall become or be illegal, null or void.

11.5 Declarant. The term "Declarant" shall mean the above named Declarant, its successors and assigns, and shall include any person or entity to which Declarant may assign and/or delegate its rights and privileges, duties and obligations hereunder, which rights and privileges, duties and obligations are and shall be assignable. In this connection, Declarant shall have the right but not the obligation to assign its rights and privileges, duties and obligations, in whole or in part, to any person or the Association. Declarant shall be relieved of any and all responsibility under this Declaration if and to the extent Declarant shall make such assignments.

11.6 Enforcement. If any Owner of any lot shall violate or attempt to violate this Declaration or any of the conditions or covenants herein, it shall be lawful for Declarant, the Association, the ACA, or any Owner to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate this Declaration or any such conditions or covenants and to prevent such violation or threat of violation and/or to recover damages for such violation or threat of violation, including reasonable attorney's fees and in general to pursue and seek such other remedies and/or relief as may be permitted at law and/or in equity, including, without limitation, specific performance. Without limitation, in order to enhance and protect the value of the lots, the right to prosecute any proceeding at law or in equity against any person or persons violating or attempting to violate any conditions either to prevent such violations or to recover damages or other dues for each violation is also expressly reserved to Declarant; however, this Section shall never be deemed to obligate Declarant to

threaten or prosecute any proceeding in law or equity or otherwise enforce this Declaration or the conditions.

EXECUTED this the 26th day of April, 2002.

DECLARANT:
FACEY ENTERPRISES, N.V., LTD., a
Delaware Corporation

By 
Wellington Chan, Vice President

THE STATE OF CALIFORNIA §
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Wellington Chan, Vice President of Facey Enterprises, N.V., LTD, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of Facey Enterprises, N.V., LTD., a Delaware Corporation and that he executed the same as a Officer of the Corporation for the purposes and consideration therein expressed, and in the capacity herein stated.

NOTARY PUBLIC, STATE OF CA.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

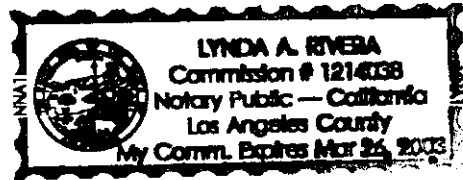
State of CALIFORNIA)
) ss.
County of LOS ANGELES)

On April 26, 2002, before me, Lynda A. Rivera, Notary Public,
personally appeared Wellington Chan,

personally known to me
[X] proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to
me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.



[Handwritten signature]
Signature of Notary Public

(seal)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could
prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Declaration of the Covenants and Restrictions of La Concha Estates

Document Date: April 26, 2002 Number of Pages: 24

Signer(s) Other Than Named Above: N/A

Exhibit "A"

BYLAWS OF LA CONCHA ESTATES

ARTICLE 1: COUNCIL OF OWNERS

1.01 Administration. LA CONCHA ESTATES, a planned residential development project located in Nueces County, Texas, shall be administered by a homeowners' association (the "Association"). The Association will be a Texas non-profit corporation organized under the name of "LA CONCHA ESTATES OWNERS ASSOCIATION, Inc.," or such other name as Declarant may designate. The Association shall be responsible for the management, maintenance, operation, and administration of the Subdivision in accordance with the Declaration, these Bylaws, the Articles of Incorporation of the Association, the duly adopted Rules and Regulations of the Association, and the laws of the State of Texas (collectively the "Subdivision Documents"). Owners of lots within the Subdivision and all persons using or entering the Subdivision shall be subject to the provisions and terms set forth in the Subdivision Documents.

1.02 Association Meetings. Meetings of the Association must be held at least once each year. Special meetings of the Association may be called by the president, a majority of the Board, or Owners having at least 20 percent of the votes in the Association. The first meeting of the Association will be held no later than the 120th day after conveyance of twenty four (24) of the dedicated lots to Owners other than the Declarant. The meeting will be called by the first Board of Directors. Until the first Association meeting, the affairs of the Association shall be managed by the first Board of Directors named in the Articles of Incorporation of the Association. Meetings of the Association and Board must be open to all Owners, subject to the right of the Board to adjourn a meeting of the Board and reconvene in closed executive session to consider actions involving personnel, pending litigation, contract negotiations, enforcement actions,

matters involving the invasion of privacy of an Owner, or matters that are to remain confidential by request of the affected parties and agreement of the Board. The general nature of any business to be considered in executive session must first be announced at the open meeting.

1.03 Notice of Association Meetings. Notice of time, place, and subject matter of all meetings will be mailed to each Owner at the address given by the Owner to the Association for notices. If any Owner fails to give an address to the Association, all notices will be sent to the address of the Owner's lot, and such Owner shall be deemed to have been given notice of the meeting irrespective of actual receipt of the notice.

1.04 Membership Voting. Membership in the Association and voting by members of the Association shall be in accordance with the following:

- (a) Each Owner shall be a member of the Association and no other person or entity shall be entitled to membership. No Owner shall be required to pay any consideration for his membership in the Association.
- (b) Each lot shall be entitled to one (1) vote. The total number of votes in the Association is subject to change from time to time resulting from an Owners exercise of their right to re-plat their lots or the Declarant's Special Right to re-plat and annex the Declarant's adjoining property. If two or more lots are platted into one lot, the resulting re-platted lot shall be entitled to only one (1) vote.
- (c) No Owner, other than Declarant, shall be entitled to vote at any meeting of the Association until the Owner has presented a copy of the Owner's deed to the Secretary of the Association.
- (d) If title to a lot is in the name of two or more persons as Owners, any one of the Owners may vote as Owner of the lot at any meeting of the Association. The Owner's vote shall be binding on the other Owner(s) who are not present at the meeting unless written notice to the contrary from any other Owner of the lot has been received by the Association prior to the meeting. In that event the unanimous action of all the Owners of the lot (in person or by proxy) shall be required to cast their vote as Owners. If two or more of the Owners of a lot are present at any meeting of the Association, then unanimous action shall also be required to cast their vote as Owners. Multiple Owners are in unanimous

agreement if one of the multiple Owners casts the votes allocated to their lot and none of the other Owners present at the meeting makes prompt protest to the person presiding over the meeting.

(e) The presence at the beginning of the meeting, in person or by proxy, of Owners qualified to vote and representing fifty one percent (51%) of the lots shall constitute a quorum for holding any meeting of the Association. If a quorum is not present or represented at the beginning of the meeting, the Owners then present in person or represented by proxy shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At the adjourned meeting at which a quorum shall be present or represented by proxy any business may be transacted which might have been transacted at the original meeting.

(f) Votes at all Association meetings may only be cast in person or by proxy. Proxies must be filed with the Secretary of the Association at or before the appointed time of each meeting. No proxy shall be valid after eleven (11) months from the date of it's execution, unless otherwise specifically provided in the proxy.

(g) When a quorum is present at any meeting of the Association, the vote of a majority (fifty-one percent [51%]) or more of the Owners qualified to vote and present in person or represented by proxy at the meeting shall decide any question brought before the meeting, unless the question is one upon which by express provision of the statutes, the Declaration, or these Bylaws, a different percentage vote is required, in which case such express provision shall govern and control the decision of such question. Owners present in person or by proxy at a duly organized meeting of the Association may continue to transact business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum.

(h) At all meetings of Owners cumulative voting shall not be permitted.

1.05 Books. The Association shall keep or cause to be kept detailed financial records that comply with generally accepted accounting principals and that are sufficiently detailed to enable the Association to account for:

- (a) all expenditures and receipts for the administration of the Subdivision,
- (b) the maintenance and repair expenses of the Common Area and any other expenses incurred by or on behalf of the Association and Owners,
- (c) the Subdivision's Resale Certificate prepared under Sections 207.001 and

207.003, Disclosure of Information by Property Owners' Association, of the Texas Property Code,

- (d) the name and mailing address of each lot Owner,
- (e) voting records, proxies, and correspondence relating to amendments to the Subdivision Documents,
- (f) invoices for attorney's fees and other costs itemized so as to relating to all matters for which the Association seeks reimbursement of fees and costs, and
- (g) minutes of meeting of the Association and Board.

The financial and other records of the Association shall be reasonably available at the office of the treasurer for examination by a lot Owner and the Owner's authorized agents. An attorney's files and records relating to the Association are not records of the Association and are not subject to inspection by Lot Owners or production in a legal proceeding.

1.06 Association's Banking Account: All Assessments, attorney's fees, costs, and other amounts collected from the Owner(s) shall be deposited into an account maintained at a financial institution in the name of the Association. Only officers of the Association, members of the Board, the Association's managing agent, or employees of the Association's managing agent may be signatories on the account.

1.07 Annual Audit: The Association shall, as a common expense, annually obtain an independent audit of the records unless the audit is waived by a majority vote at a meeting of the Association.

1.08 Owner Information: Not later than the 30th day after the date of acquiring an interest in a lot, and not later than the 30th day after the date any of the required information changes, the lot Owner shall provide the Association with:

- (a) the lot Owner's mailing address, telephone number, and driver's license

number, if any,

- (b) the name and address of the holder of any lien against the lot, and the lender's loan number
- (c) the name and telephone number of any person occupying the lot other than the Owner, and
- (d) the name, address, and telephone number of any person managing the lot as agent of the Owner.

1.09 Qualification of Board Members. Each member of the Board of Directors of the Association must be a member of the Association or a designated representative of such member if the member is a corporation, partnership, or other legal entity, with the exception of the first Board of Directors (and any replacement directors selected by Declarant prior to the first meeting of the Association) designated in the Articles of Incorporation of the Association. The number of directors will be five (5), but the number of directors may be increased or decreased from time to time by amendment to these Bylaws, provided, however, that the number of directors shall never be less than three (3). An amendment to decrease the number of directors may not shorten the term of any incumbent director.

1.10 Election of Directors. Directors shall be elected to succeed the first Board of Directors at the first meeting of the Association. Each director shall hold office for a two (2) year term with the exception of the directors elected at the first meeting of the Association. At that meeting two (2) directors will be elected to serve a two (2) year term and three (3) directors will be elected to serve a three (3) year term. New Directors shall be elected at the annual meeting of the Association for the Directors whose terms have expired. All directors shall be elected by secret ballot, and the nominees receiving the greatest number of votes shall be elected.

1.11 Vacancies. Whenever a vacancy occurs in the board of directors other than from the expiration of a term of office, the remaining directors shall appoint a lot

Owner to fill the vacancy for the remaining un-expired term of office.

1.12 Board Meetings. A regular meeting of the Board shall be held without call or notice immediately after and at the same place as the annual meeting of the Association.

1.13 Special Board Meetings. Special meeting of the Board shall be held upon call of the President or upon the written request of at least three (3) members of the Board.

- (a) Notice of any special meeting shall be given at least 10 days prior to the meeting by written notice delivered personally or mailed to each director. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail sent to the last known address of the director. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice of such meeting.
- (b) A special meeting of the Board may be held by any method of communication, including any electronic and telephone, if:
 - (1) notice of the meeting has been given in accordance with 1.13(a) above;
 - (A) each director may hear and be heard by every other director; and
 - (B) The meeting does not involve voting on a fine, damage assessment, appeal from a denial of ACA approval, or suspension of a right of a particular Owner before the Owner has an opportunity to attend a Board meeting to present the Owner's position, including any defense, on the issue.
 - (2) the Board may act by unanimous written consent of all the Directors, without a meeting, if

- (A) the Board action does not involve voting on a fine, damage assessment, appeal from a denial of architectural control approval, or suspension of a right of a particular Owner before the Owner has an opportunity to attend a Board meeting to present the Owner's position, including any defense, on the issue; and
 - (B) a record of the Board action is filed with the minutes of Board meetings.
- (c) An Association, on the written request of an Owner, shall inform the Owner of the time and place of the next regular or special meeting of the Board. If the Association representative to whom the request is made does not know the time and place of the meeting, the Association promptly shall obtain the information and disclose it to the Owner or inform the Owner where the information may be obtained.

1.14 Grievance Meetings. Grievance Meetings of the Board, or the Grievance Committee if one has been appointed by the Board, shall be held upon call of the President after the Association's receipt of a written request from an Owner pursuant to Section 1.16(n), below. The purpose of the Grievance Meeting is to discuss and verify facts and attempt to resolve the matter in issue.

- (a) Notice of all Grievance Meetings shall be given to each director, or Grievance Committee member if a committee has been appointed, at least 10 days prior to the meeting by written notice which may be delivered personally or mailed. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail sent to the last known address of the director. The attendance of a director or Grievance Committee member at a meeting shall constitute a waiver of notice of such meeting, except when a director or member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any Grievance Meeting need be specified in the notice of the meeting.
- (b) All Grievance Meetings shall be held no later than the 30th day after the date the Association receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. The Board, Grievance Committee, or Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may

be granted by agreement of the parties. Audio recordings shall be permitted at the hearing.

- (c) The notice and hearing procedures for a Grievance Meetings and paragraph 1.16(n) below do not apply if the Association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which the procedures for a Grievance Meeting and paragraph 1.16(n) do apply, a party to the suit may file a motion to compel mediation. The notice and hearing procedures for a Grievance Meetings and paragraph 1.16(n) below do not apply to a temporary suspension of a Owner's right to use the Common Area if the temporary suspension is the result of a violation that occurred in a Common Area and involved a significant and immediate risk of harm to others in the Subdivision. The temporary suspension is effective until the Board makes a final determination on the suspension after following the prescribed Grievance Meeting and paragraph 1.16(n) procedures.
- (d) Notwithstanding anything in the Subdivision Documents to the contrary, an Owner is not liable for attorney's fees incurred by the Association relating to a matter described in a 1.16(n) Notice if the attorney's fees are incurred before the conclusion of the Grievance Meeting, or if the Owner does not request a hearing, before the date by which the Owner must request a hearing. The notice provisions of this subsection do not apply to a counterclaim of the Association in a lawsuit brought against the Association by an Owner.
- (e) The Owner's presence is not required to hold a requested Grievance Meeting.
- (f) All Grievance Meetings shall be held in executive session. Prior to the effectiveness of any sanction ordered by the Board and/or the Grievance Committee, proof of notice, and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who mailed the notice. The 1.16(n) Notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

1.15 Quorum. A quorum is present throughout a meeting of the Board or at a Grievance Meeting if persons entitled to cast at least 50 percent of the votes on the Board or the Grievance Committee are present at the beginning of the meeting.

- 1.16 Powers of the Board. The Board, acting on behalf of the Association, may:
- (a) adopt and amend budgets for revenues, expenditures, and reserves, and collect assessments from the Owners.
 - (b) provide for independent management of the Subdivision, hire and terminate managing agents and other employees, agents, and independent contractors.
 - (c) institute, defend, intervene in settle, or compromise litigation or administrative proceedings in its own name on behalf of itself or two or more lot owners on matters affecting the Subdivision.
 - (d) make coX contcts and incur liabilities relating to the operation of the Subdivision.
 - (e) regulate the use, maintenance, repair, replacement, modification, and appearance of the all improvements to the Subdivision.
 - (f) adopt and amend rules regulating the use, maintenance, repair modification, and appearance of the Common Area.
 - (g) cause additional improvements to be made as a part of the Common Area.
 - (h) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property.
 - (i) grant easements, leases, licenses, and concessions through or over the Common Area.
 - (j) impose and receive payments, fees, or charges for the use, rental, or operation of the Common Area and for services provided to the Owners.
 - (k) impose interest and late charges for late payments of assessments, returned check charges, and, if notice and an opportunity to be heard are given, reasonable fines for violations of the Subdivision Documents.
 - (l) adopt and amend rules regulating the collection of delinquent assessments and the application of payments.
 - (m) impose reasonable charges for preparing, recording, or copying declaration amendments, resale certificates, or statements of unpaid assessment.
 - (n) after giving written notice to an Owner by certified mail, return receipt requested (sometime referred to as a "1.16(n) Notice"), the Board may

suspend an Owner's right to use the Common Area, file a suit against an Owner (other than a suit to collect a Regular or Special Assessment or foreclose under an Association lien), charge an Owner for property damage, or levy a fine for a violation of the Subdivision Documents.

The 1.16(n) Notice must:

1. describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the Association from the Owner, and
 2. inform the Owner that the Owner:
 - A. is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the proceeding six months, and
 - B. may request a hearing before the Board, or the Grievance Committee if one has been appointed by the Board, on or before the 30th day after the date the Owner receives the notice.
 3. inform the Owner that if a hearing is to be held before the Grievance Committee that the Owner has the right to appeal the committee's decision to the Board.
 4. Inform the Owner if attorney's fees and costs relating to collecting amounts, including damages, due the Association for enforcing the Subdivision Documents will be charged to the Owner if the delinquency or violation continues after the cure date defined in the notice.
 5. inform the Owner of the proposed sanction(s) to be imposed.
- (o) at the discretion of the Board, appoint a Grievance Committee which is to be made up of no less than three (3) Owners and no more than five (5) Owners. Officers and directors on the Board may serve on the Grievance Committee, which, if appointed, will hear, discuss, and attempt to resolve any matters following a request from an Owner in receipt of a 1.16(n) Notice. Grievance Committee members shall serve three (3) year terms, subject to the right of the Board to remove any committee member by a majority vote at a meeting

of the Board. If a vacancy occurs on the Grievance Committee, either from the expiration of a term of office or resignation, the Directors shall appoint a committee member to fill the vacancy for the remaining un-expired.

(p) purchase insurance and fidelity bonds it considers appropriate or necessary.

1.17 Officers of the Association. The officers of the Association shall be a President, a Secretary, and a Treasurer, and such other officers as the Board shall from time to time determine. All offices may be held by a person who may also be a member of the Board. All officers shall be elected by and hold office at the pleasure of the Board of Directors, which shall fix the tenure of all officers.

1.18 Powers. The officers of the Association shall have the powers and duties generally ascribed to the respective officers, and such additional authority or duty as may from time to time be established by the Board.

1.19 Execution of Documents. The Board may, in its discretion, determine the method and designate the signatory officer or officers, or other persons or persons, to execute any instrument or document including amendments to the Declaration and these By-laws, or to sign the Association name without limitation, except where otherwise provided by law, and such execution or signature shall be binding upon the Association.

ARTICLE 2: TAXES, MAINTENANCE, AND ASSESSMENTS

2.01 Owner(s)' Taxes. Each Lot Owner shall be assessed as the person or entity in possession of the Owner's lot, and all real property and personal property taxes thereon shall be paid by the Lot Owner to the taxing authority.

2.02 Owner(s) Maintenance Responsibilities. Each Owner is responsible for the cost of maintenance and repair of the Owner's lot and improvements to the lot.

2.03. Association Expenses and Receipts. All costs incurred by the Association, including costs incurred in satisfaction of any liability arising from, caused by, or in connection with the Association's administration, operation, and maintenance of the Subdivision and Common Area shall be a paid pro-rata by the Owners per lot (the "Common Expense). All sums received by the Association, including all sums received from Assessments and as proceeds from any policy of insurance carried by the Association, shall be Association receipts. The share of an Owner in the funds and assets of the Association cannot be assigned, pledged, or transferred in any manner except as an appurtenance to the Owner's lot.

2.04 Association's Maintenance Responsibilities and Annual and Special Assessments. The Association is responsible for maintenance, repair, and replacement of the Common Area.

(a) Regular Assessments: The Board shall establish an annual budget in advance for each fiscal year and such budget shall project all Common Expenses or the forthcoming year which may be required for the proper administration, operation, management, and maintenance of the Subdivision and of the Association, including reasonable allowances for working capital, contingencies, and reserves for maintenance, repairs, and replacements, and reserves for shared maintenance expenses created by any contract or agreement. The Regular Assessment levied against Owners for each year shall be established by the adoption of the annual budget by the Board. Copies of the budget will be delivered to each Owner, although the delivery of a copy of the budget to each Owner shall not affect the liability of any Owner for any existing or future assessment. Should the Board at any time determine in its sole discretion that the Regular Assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Subdivision or the Common Area in any fiscal year for any reason, including non-payment of assessments by an Owner, then the Board has the authority at any time and from time to time to levy an additional assessment or assessments as it shall deem necessary for that purpose. If, for any year, the income of the Association from assessments exceeds the sum of (i) total expenses of the Association for which payment has been made or liability incurred, and (ii) reasonable reserves as may have been established by the Board, the additional income may be utilized in accordance with a vote of Owners at a meeting called for such purpose, which vote shall be to either: (1) return such excess to Owners or (2) apply the excess to the following year's assessments.

(b) Special Assessments, in addition to those described in paragraph 2.04(a) above, may be made by the Board at any time and from time to time: (i) to meet other needs or (ii) to construct or establish facilities deemed of benefit to the Association. All Special Assessment under this paragraph shall not be levied without the prior written approval of at least two thirds (2/3rds) of the Owners.

2.05 Allocation of Assessments. All assessments levied against the Owners to cover Common Expenses shall be apportioned among and paid by Owners on a pro-rata basis in accordance with the number of lots in the Subdivision, except for assessments made against a single Owner, such as for repairs made by the Association at the expense of an Owner or as a fine against an Owner as provided in the Subdivision Documents, which shall be paid in full by such Owner. Assessments will be made on an annual basis but may be due and payable in monthly installments, in advance, on the first day of each month, or at such other times as the Board may determine. An Owner shall be in default if such assessment, or any part thereof, is not paid to the Association in full on or before the due date for such payment; and upon written notice after such default the Board may accelerate and declare immediately due and payable the entire annual assessment of such Owner. Assessments in default shall bear interest at the highest lawful rate commencing on the fifth day after such assessment becomes delinquent until paid in full. Each Owner (whether one or more persons) shall be, and remain, personally (and in the case of a lot with more than one Owner, jointly and severally) liable for the payment of all assessments which may be levied against such Owner by the Association in accordance with the Subdivision Documents; and any unpaid assessments with accrued interest thereon owed with respect to an lot may, at the option of the Association, be collected out of the sales proceeds of the lot.

2.06 No Exemptions. No Owner may exempt himself from liability for provided for in the Subdivision Documents by waiver of the use or enjoyment of any of the Common Area or by the abandonment of the Owner's lot.

2.07 Collection of Assessments. The Association may enforce collection of

delinquent Regular or Special Assessments by suit at law for a money judgment, and the expenses incurred in collecting such unpaid assessments including interest, costs, and attorneys' fees shall be chargeable to the Owner in default. Further, all assessments are secured by a continuing lien on the Owner's lot and on rents and insurance proceeds received by the Owner relating to the lot. The term "Assessments" may mean a Regular or a Special assessments, and all dues, fees, charges, interest, late fees, fines, collection costs, attorney's fees, and any other amount due to the Association by the Owner or levied against the lot by the Association.

2.08 Restriction on Attorney's Fees Resulting from a Non-judicial Foreclosure:

The amount of attorney's fees included in a non-judicial foreclosure sale for an Assessment is limited to the greater of:

- (a) one-third of the amount of all actual costs and Assessments, excluding attorney's fees, plus interest and court costs, or
- (b) \$2,500.00, or
- (c) as provided by section 200.008 of the Texas Property Code or its amendment.

This restriction on attorney's fees only applies to the Association's remedy of non-judicial foreclosure. It does not prevent the Association from recovering or collecting Attorney's fees in excess of the restricted amounts by other means provided by law.

2.09 Priority of the Association's Lien: The Association's lien for Assessments has priority over any other lien except:

- (a) a lien for real property taxes and other governmental assessments or charges against the Lot,
- (b) a first vendor's lien and first deed of trust securing a note given for the purchase of a lot (a "purchase money lien") that is recorded before the date on which the Assessments sought to be enforced becomes delinquent,
- (c) a deed of trust securing a note for work and material used in construction of

improvements on the Owner's lot if contracted for in writing as provided by Sections 53.254(a), (b), and (e) of the Texas Property Code and recorded before the date on which the assessments sought to be enforced becomes delinquent, and

- (d) a deed of trust securing an extension of credit that meets the requirements of Sections 50(a)(6), Article XVI, Texas Constitution (a "Home Equity Loan") that is recorded before the date on which the assessments sought to be enforced becomes delinquent.

2.10 Assessment Lien Enforcement: To evidence the Association's lien, the Board may authorize an officer of the Association to prepare and sign a written notice signed setting forth the amount of any unpaid Assessments, the name of the Owner in default, and a description of the Owner's lot. The notice may be filed of record with the County Clerk, Nueces County, Texas (the lien shall attach from the due date of such unpaid assessment, however, not the date of the filing of the notice). A lien for Assessments may be enforced by the Association by judicial foreclosure in a suit to recover a money judgment for the delinquent assessments, and/or through a nonjudicial sale by exercising the power of sale granted to the Association by the Owner as provided in the Declaration and in accordance with Section 51.002 of the Texas Property Code, and shall also secure the interest, costs, and attorneys' fees incurred in such action. The Association shall have the power to bid in the Condominium Lot at foreclosure and to acquire, hold, lease, mortgage, convey, or otherwise deal with the same.

2.11 Foreclosure Sale Prohibited in Certain Circumstances: As provided by Section 209.009 of the Texas Property Code, the Association may not foreclose an Assessment lien if the Regular or Special Assessment debt has been paid by the Owner and the remaining debt to the Association consists solely of:

- (a) fines assessed by Association for late payment, or

- (b) attorney's fees incurred by the Association solely associated with fines assessed by the Association.

In such an event, the Associations remedy is to collect the debt from the Owner when the Owner's lot is sold, or to file a law suit to recover a money judgment for unpaid

assessments without foreclosing or waiving the lien securing the same, and the Association's attorney's fees in such an action is not restricted by the caps set forth in section 2.08 above.

2.12 Notice After Foreclosure Sale: The Association must send to the Owner of a lot foreclosed by the Association's a notice of sale not later than the 30th day after the date of a foreclosure sale (the "Post Foreclosure Notice").

- (a) The Post Foreclosure Notice must be written stating the date and time the sale occurred and informing the Owner of the Owner's right to redeem their lot.
- (b) The Post Foreclosure Notice must be sent by certified mail, return receipt requested, to the lot Owner's last known mailing address, as reflected in the records of the Association.
- (c) Not later than the 30th day after the date the Association sends the Post Foreclosure Notice the Association must record an affidavit in the real property records of Nueces County stating the date on which the Post Foreclosure Notice was sent and containing a legal description of the lot.
- (d) The Post Foreclosure Notice must also be sent on a sale of an Owner's lot by a Sheriff or constable conducted as provided by a judgment obtained by the Association.

2.12 Loss of Voting Rights: An Owner in default of his obligations to the Association or other Owners as set forth herein shall not be entitled to vote at any meeting of the Association so long as such default continues.

2.13 Owner's Right of Redemption: The Owner of a lot purchased by the Association at a foreclosure sale of the Association's lien for Assessments may redeem the lot not later than the 180th day after the date of the Post Foreclosure Notice is mailed to the Owner. A person who purchases a lot at a sale foreclosing the Association's Assessment lien may not transfer ownership of the lot to a person other than the redeeming lot Owner during the redemption period.

2.14 Redemption Procedure from the Association: To redeem a lot purchased by the Association at the Assessment foreclosure sale, the lot Owner must pay to the Association:

- (a) all amounts due the Association at the time of the foreclosure sale,
- (b) interest from the date of foreclosure sale to the date of redemption at the annual rate of 10%,
- (c) costs incurred by the Association in foreclosing the lien and conveying the lot to the redeeming lot Owner, including reasonable attorney's fees,
- (d) any assessment levied against the lot by the Association after the foreclosure sale, and
- (e) any reasonable cost incurred by the Association as owner of the Lot, including mortgage payments and costs of repair, maintenance, and leasing and leasing the property.
- (f) the purchase price paid by the Association at the foreclosure sale less any amounts due the Association that were satisfied out of the foreclosure sale proceeds.

2.15 Redemption Procedure from Person's other than the Association: To redeem a lot purchased by a person other than the Association at the Assessment foreclosure sale, the lot Owner must:

- (a) pay to the Association:
 - 1. all amounts due the Association at the time of the Assessment foreclosure sale less the foreclosure sales price received by the Association from the foreclosure purchaser,
 - 2. interest from the date of the foreclosure sale through the date of redemption on all amounts owed the Association at the rate of 10%,
 - 3. costs incurred by the Association in foreclosing the Assessment lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees,

4. any unpaid assessments levied against the property by the Association after the date of the foreclosure sale, and
5. taxable costs incurred in a forcible entry and detainer proceeding brought by the Association to gain possession of the property.

(b) pay to the person who purchased the property at the Assessment foreclosure sale:

1. any Assessments levied against the property by the Association after the date of the foreclosure sale and paid by the purchaser,
2. the purchase price paid by the purchaser at the foreclosure sale,
3. the amount of the deed recording fee,
4. the amount paid by the purchaser as valorem taxes, penalties, and interest on the property after the date of the foreclosure sale, and
5. taxable cost incurred in a forcible entry and detainer proceeding brought by the purchaser to gain possession of the property.

If a Owner of a lot redeems the property under this section, 2.15(b), the purchaser of the property at the Assessment foreclosure shall immediately execute and deliver to the Owner a deed transferring the property to the redeeming lot Owner. If a purchaser fails to comply with this section 2.15(b), the lot Owner may file a law suit against the purchaser and may recover reasonable attorney's fees from the purchaser if the lot owner is the prevailing party in the action.

2.16 Notice to Lender: If a Lot Owner is delinquent in payment of Assessments to an Association, at the request of the Association a holder of a recorded lien against the Lot may provide the Association with information about the Lot Owner's debt secured by the holder's lien against the Lot and other relevant information. At the request of a lien holder, the Association may furnish the lien holder with information about the Subdivision and the Lot Owner's obligations to the Association.

2.17 Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay Assessments. In the absence of any annual budget or adjusted budget, each Owner shall continue to pay Assessments at the rate established for the previous fiscal year until notice of the new payment which is due after such new annual or adjusted budget shall have been adopted.

2.18 Statement of Assessments. Upon written request the Association shall provide any mortgagee a written statement of all unpaid Assessments due from the Owner. The Board may impose a reasonable charge for the preparation of such statement to cover the cost of preparation and delivery of the statement.

2.19 Litigation Expenses. The Board may utilize the funds of the Association, whether collected by Regular or Special Assessments, to pay the costs and expenses, including attorneys' fees as provided in these By-laws incurred or arising in connection with any litigation by or against the Association, including, but not limited to, suits to collect Assessments from an Owner and bidding at the foreclosure sale of a lot.

2.20. Declarant's Liability for Assessments: During the period prior to the first meeting of the members of the Association, Declarant shall be responsible for payment of the Regular Assessments with respect to those Lots owned by Declarant; provided that in no event shall Declarant be responsible for payment of any portion of such assessments or any Special Assessments for reserves for future maintenance or repairs until after such first meeting of the members of the Association.

ARTICLE 3: OWNER ACTION

Without limiting the other legal rights of any Owner, legal action may be brought by the Association in its sole discretion on behalf of two (2) or more Owners, as their respective interests may appear, with respect to any cause of action relating to the

enforcement of the Subdivision Documents.

ARTICLE 4:
INSURANCE

4.01 Insurance. The association shall maintain, to the extent reasonably available, property insurance on the insurable Common Area insuring against all risks of direct physical loss commonly insured against, including fire, flood, and extended coverage, in a total amount of at least 80 percent of the replacement cost or actual cash value of the insured property as of the effective date and at each renewal date of the policy, and commercial general liability insurance, including medical payments insurance, in an amount determined by the Board covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Area. All property insurance must provide that:

- (a) each Lot Owner is an insured person under the policy with respect to liability arising out of the person's ownership of an undivided interest in the Common Area or membership in the Association;
- (b) the insurer waives its right to subrogation under the policy against a Lot Owner;
- (c) no action or omission of a Lot Owner, unless within the scope of the Lot Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and
- (d) if, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same property covered by the policy, the Association's policy provides primary insurance.

4.02 Fidelity Insurance. The Association may also maintain adequate fidelity coverage to protect against dishonest acts on the part of directors, officers, trustees, employees, volunteers, and managers, if any, of the Association who handle, or are responsible for handling, funds belonging to or administered by the Association. Such fidelity bonds shall name the Association as obligee, shall be written in an amount at least

equal to one hundred fifty percent (150%) of the estimated annual operating expenses and reserves of the Association for the current year, and shall contain waivers of any defense based upon the exclusion of any persons who serve without compensation.

4.03 Premiums. All premiums upon insurance purchased by the Association pursuant to these Bylaws shall be included in the Association's budget in accordance with Paragraph 2.04(a).

4.04 Claims and Proceeds. A claim for any loss covered by the Association's Policy must be submitted by and adjusted with the Association. Proceeds of all insurance policies owned by the Association shall be received by the Association, and not to any Lot Owner or lien holder, and held in separate account and applied by the Association to remedy the casualty or restore the funds occasioned by the loss.

4.05 Owner's Contents. The Association shall not be responsible for procurement or maintenance of any insurance covering any hazards to the contents of any Lot nor the liability of any Owner for occurrences therein not caused by or connected with the Association's operation, maintenance, or use of the Project.

4.06 Unavailable Insurance. Neither the Board, nor any officer of the Association, nor Declarant shall be liable for failure to obtain any coverage required by this Article or for any loss or damages resulting from such failure, if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage are so available only at demonstrably unreasonable cost. If the insurance is not reasonably available, the Board shall cause notice of that fact to be delivered or mailed to all Lot Owners and lien holders. This section does not affect the right of a lienholder to require a Lot Owner to acquire insurance in addition to that provided by the Association.

ARTICLE 5:
ADDITIONS, MAINTENANCE, REPAIR, AND REPLACEMENT

5.01 Additions, Alterations, or Improvements by Board of Directors. Except during the period prior to the first meeting of the Association (sometimes referred to as the "Period of Declarant Control"), whenever in the judgment of the Board the Common Area shall require additions, alterations or improvements costing in excess of Ten Thousand Dollars (\$10,000.00) during any period of twelve consecutive months (or in excess of Ten Thousand Dollars more than reserves accumulated thereof), such additions, alterations, or improvements shall be made only with the prior approval of the Association, at a meeting of the Association at which a quorum is present, and passed by a vote of seventy five percent (75%) or more of the Owners qualified to vote and present in person or represented by proxy at the meeting. Following the Association's approval, the Board may proceed with such additions, alterations, or improvements and shall assess all Owners for the cost thereof as a Common Expense. Any additions, alterations, or improvements costing Ten Thousand Dollars or less during any period of twelve consecutive months (or not in excess of Ten Thousand Dollars more than reserves accumulated thereof) may be made by the Board without prior approval of the Owners and the cost thereof shall constitute a Common Expense, which may be assessed, if necessary, as provided in Paragraph 2.04(a).

ARTICLE 6:
MORTGAGES

6.01 Mortgagee's Responsibility for Assessments. Any first lien purchase money and/or construction mortgagee which obtains title to a Lot as a result of a foreclosure of its lien shall extinguish the Association's lien on the Lot for assessments which accrued prior to the foreclosure. All assessments accruing on a Lot after the date of the foreclosure sale shall be assessed and paid by the foreclosing Mortgagee as the Owner of the Lot, and such Mortgagee shall abide by and conform to all Subdivision Documents.

ARTICLE 7:
COMPLIANCE

7.01 Acceptance of Governing Rules. The Association, all present or future Owners, tenants, future tenants, or any other persons using the Subdivision facilities shall comply with the Subdivision Documents. In the event these Bylaws shall be inconsistent with the Declaration, then the Declaration shall be controlling.

7.02 Amendment of Bylaws. These Bylaws may be amended by the members of the Association from time to time. All amendments must be approved at a meeting of the Association the notice of which will contain the nature of the amendment and its written text. A quorum must be present at the meeting, and the amendment must be passed by a vote of seventy five percent (75%) or more of the Owners qualified to vote and present in person or represented by proxy at the meeting; provided, however, that no amendment shall affect the rights or privileges of Declarant unless the amendment is approved in writing by the Declarant. Upon the approval of any amendment, an instrument in recordable form setting forth the amendment and containing a certificate by the President and the Secretary of the Association, certifying as to the accuracy of the contents of such amendment and as to its due adoption in accordance herewith shall be prepared and filed of record in Nueces County, Texas, and such instrument shall be effective to amend these Bylaws without the signatures of any other parties.

ARTICLE 8:
NET EARNINGS OF ASSOCIATION

8.01 Association Earnings: Except to the extent Owners shall benefit (i) from the administration, operation, management, maintenance, repair, and/or rebuilding of the Common Area by the Association or (ii) from the rebating of excess Assessments to Owners, no part of the net earnings of the Association shall inure to the benefit of any

Owner or any other individual.

ARTICLE 9: SEVERABILITY

9.01 Severability: In the event that any of the terms, provisions, or covenants of these Bylaws are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions, or covenants hereof or the remaining portions of any terms, provisions, or covenants held to be partially invalid or unenforceable.

ARTICLE 10: HEADINGS

10.01 Headings: The headings used in these Bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

EXECUTED this the 26th day of April, 2002.

DECLARANT:
FACEY ENTERPRISES, N.V., LTD., a
Delaware Corporation

By 
Wellington Chan, Vice President

Doc# 2002019773
Pages 51
04/29/2002 03:18:14 PM
Filed & Recorded in
Official Records of
NUECES COUNTY
ERNEST M. BRIONES
COUNTY CLERK
Fees \$109.00

Return: Michael J. Shelly P.C.
5102 Hall of Rd
Corpus Christi, TX 78411

STATE OF TEXAS
COUNTY OF NUECES

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



Ernest M. Briones

COUNTY CLERK
NUECES COUNTY, TEXAS

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

RECORDER'S MEMORANDUM

At the time of recordation, this instrument was
found to be inadequate for the best photographic
reproduction because of illegibility, carbon or
photocopy, discolored paper e.t.c. All blockouts,
additions and changes were present at the time the
instrument was filed and recorded.