

DEED

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19305

DECLARATION OF COVENANTS,
CONDITIONS & RESTRICTIONS

STATE OF TEXAS §
COUNTY OF BRAZORIA § KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, SKI DEVELOPMENT, INC., hereinafter called the Declarant, is the owner of all that certain real property located in Brazoria County, Texas, described as follows:

See Exhibit "A" for Legal Description, attached hereto and made a part hereof for all purposes.

WHEREAS, the Declarant will convey the above described properties, subject to certain protective covenants, conditions, restrictions, liens, and charges as hereinafter set forth;

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

ARTICLE I

DEFINITIONS

1.01 Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title of an interest in the properties, but excluding those having such interest merely as security for the performance of an obligation.

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1.02 Properties. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association.

1.03 Interest in the Properties. "Interest in the Properties" or "Ownership Interest" shall mean and refer to the ownership of a 1/12th undivided interest in the Properties herein described.

1.04 Declarant. "Declarant" shall mean and refer to SKI Development, Inc., its successors and assigns, if such successors or assigns shall acquire more than one undeveloped Lot from Declarant for the purpose of development.

ARTICLE II

HOMEOWNERS ASSOCIATION

2.01 Authority to Manage. The affairs of the Owners and the management of the Properties shall be administered by SKI TEXAS HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as "Association", a Texas non-profit corporation. They shall have all the rights, powers, duties, and obligations to provide for the maintenance, repair, replacement, administration, and operation of the Property as provided herein, the By-Laws, and the rules and regulations of said Association as are now in effect and as may hereinafter be promulgated. The business affairs of the Association shall be managed by its Board of Directors. Without limiting the generality of the foregoing, the Association shall be entitled to enter into such contracts and agreements concerning the Property as a whole, as the Board of Directors deems reasonably necessary or appropriate to maintain and operate the Property as a viable water skiing community, including, without limitation, the right to limit or expand the use of the Property by Owners or third parties as the Board of Directors deems appropriate.

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Until the appointment of the First Board as provided for herein, the Declarant shall exercise all of the powers, rights, duties, and functions of the Board of Directors for the benefit of the Owners.

2.02 Membership in the Association. Each Owner (and only an Owner) shall be a member of the Association so long as he shall be an Owner of an interest, and such membership shall automatically terminate when he ceases to be an Owner of an interest. Upon the transfer of ownership of an interest, however achieved (including, but not limited to, foreclosure of a mortgage or deed in lieu of foreclosure), the new Owner succeeding to such ownership shall likewise succeed to membership in the Association. The Association may issue certificates evidencing membership therein.

2.03 Voting of Members. There shall be one vote in the affairs and management of the Association for each ownership interest. In the event that ownership interest is owned by more than one (1) person, the persons who own fractional interests in such interest aggregating to more than fifty percent (50%) of the whole ownership thereof, shall appoint one (1) Owner, who shall be a voting member of the Association. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual notice to the Board of Directors or upon the death or judicially declared incompetence of any one of the persons. The Board of Directors shall be entitled to rely on such designation unless and until written notice revoking such designation is received by the Board of Directors. In the event that an interest is owned by more than one (1) person and no person is designated to vote on behalf of the persons having ownership in said interest, then none of such members shall be allowed to vote. All members of the Association may be present at any meeting of the Association and may act at any such meeting either in person or by proxy. At any such meeting, the Declarant may exercise the voting rights with respect to interests owned by it.

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2.04 Meetings of the Members.

(a) The first meeting of the members of the Association shall be held when called by the initial Board of Directors upon ten (10) days written notice to the Owners. Such written notice may be given at any time but must be given not later than thirty (30) days after at least ten (10) interests have been sold by the Declarant, and a deed therefor recorded.

(b) Thereafter, an annual meeting of the members of the Association shall be held at such place as may be designated by the Board of Directors at 8:00 p.m. on the third Tuesday in March of each calendar year (or the first business day thereafter if such day is a governmental or religious holiday). At the discretion of the Board of Directors, the annual meeting of the members of the Association may be held at such other reasonable time (not more than sixty (60) days prior to or subsequent to the aforesaid date) as may be designated by written notice of the Board of Directors delivered to the members not less than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting.

(c) At the annual meeting, the Board of Directors shall present a financial accounting of the Common Expense Fund, itemizing receipts and disbursements for the preceding calendar year, the allocation thereof to each Owner and the estimated Common Expense Charges for the coming calendar year. Within thirty (30) days after the annual meeting, the statements and estimates presented at the annual meeting by the Board of Directors shall be delivered to all Owners.

(d) Special meetings of the members may be called by the President of the Association or any Vice President of the Association at any time or may be called upon petition to the President of

the Association by members having ten percent (10%) of the votes in the Association or by a majority of the Board of Directors. Written or printed notice stating the place, day, and hour of such special meeting and the purpose or purposes for which the meeting is called shall be delivered to each member not less than three (3) nor more than twenty-one (21) days from the date of such meeting.

(e) For the purpose of determining the members entitled to notice of a meeting and to vote at any meeting, the membership of the Association shall be determined at the close of business on the twenty-fifth (25th) day preceding such meeting.

2.05 Board of Directors. The Board of Directors shall consist of three (3) persons who, except in the case of the initial Board, shall be members of the Association, spouses of members, or, in the event that an interest is owned by a corporation or other business entity, an officer, director, or other designated representative of such entity who is the designated user of such interest. The Directors shall be elected by the members in the following manner:

(a) Prior to the first meeting of the members of the Association as described in 2.04(a) above, the three (3) Directors comprising the Board of Directors shall have been appointed by the Declarant ("the First Board").

(b) At the first annual meeting of the members of the Association held in accordance with 2.04(b) above, the three (3) Directors shall be elected by the members, two (2) of which shall serve for terms two (2) years each, and one (1) of which shall serve for a term of three (3) years.

(c) All votes shall be cast by written ballot and the candidate receiving the highest number of votes for each position to be elected shall be deemed

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elected. Cumulative voting shall be prohibited for the election of Directors. The presence of a majority of Directors at a meeting of the Board of Directors shall constitute a quorum for the transaction of business. The action of a majority of Directors present at the meeting at which there is a quorum shall be the act of the Board of Directors. The annual meeting of the Board of Directors shall be held each year immediately following the annual meeting of the members, at the place of such annual meeting of members, for the election of officers and the consideration of any other business that may be properly brought before such meeting. Regular meetings of the Board of Directors shall be held at such times and places as the Board of Directors shall determine, but not less often than once each calendar quarter. Special meetings of the Board of Directors shall be held at any time upon written notice of such special meeting by the President of the Association or upon call by any Director.

(d) Except for those members of the Board of Directors who are appointed to the Board of Directors by the Declarant in accordance with 2.05(a) above, any member of the Board of Directors may be removed from membership by the Board of Directors with or without cause by an affirmative vote of two-thirds (2/3) of the votes represented at a meeting of the members of the Association called to consider such action. A replacement for such member so removed shall be elected by the Association for the unexpired term of such expelled Director's term. Any member of the Board of Directors appointed by the Declarant as set forth above may be removed from membership on the Board of Directors, for cause only, by the affirmative vote of two-thirds (2/3) of the votes

represented at a meeting of the members of the Association called to consider such action. A replacement for such member so removed shall be appointed by the Declarant for the unexpired term of such expelled Director's term.

(e) The Directors (other than those appointed by the Declarant) shall serve for their respective designated terms, commencing at the time of their election until their death, resignation, removal, or until they are no longer members of the Association, whichever occurs first. Those Directors appointed by the Declarant shall serve from their appointment until their death, resignation, appointment of a successor Director by the Declarant, or until such time as their position as Director is filled by means of election by the members of the Association as provided for in 2.05(b) above.

2.06 Actions Without Meetings. Any action required by this Declaration or by law to be taken at a meeting of the members of the Association or at any meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all the members of the Association entitled to vote with respect to the subject matter thereof or signed by all the members of the Board of Directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote at a meeting.

2.07 Officers. The Officers of the Association shall be elected by the Board of Directors and shall consist of a President, a Vice President, a Secretary, and a Treasurer, and such other Vice Presidents, Assistant Secretaries and Assistant Treasurers as may be convenient or necessary in the judgment of the Board of Directors for the administration and operation of the Property. The Officers shall be elected to one (1) year terms from among the members of the Association at the annual meeting of the Board of Directors.

2.08 Administration of the Property. The Association acting through its Board of Directors, its Officers, or other duly authorized management representatives (including, without limitation, a Managing Agent), shall manage the business and affairs of the Property and shall, without limitation, have the powers of collection and enforcement set forth in this Declaration. The Association shall, for the benefit of all of the Owners, provide, perform, cause to be performed, maintained, acquired, contracted and paid for out of the Common Expense Fund, the following:

(a) Utility services used in or for the Property, the pumping of water, electricity, or such other utility services.

(b) The insurance required and such other policies of casualty, liability, or other insurance covering persons, property, and risks as are in the best interests of the Property.

(c) The services of a Managing Agent and such other persons as the Board of Directors, from time to time, determines to be necessary or proper for the daily management, operation, and maintenance of the Property.

(d) All supplies, tools, and equipment reasonably required for use in the management, operation, maintenance, cleaning, and enjoyment of the Property, including, but not limited to, water ski jump(s) and/or slalom course(s) or maintenance equipment, if any.

(e) The cleaning, maintenance, repairing, reconstruction, and replacement of any part of the Property as the Board of Directors determines to be necessary for the operation of the Property in a manner consistent with the desires of the members of the Association.

(f) The removal of all trash, garbage, and rubbish from the Property, including the employment of the public or private services of a garbage collection company or agency.

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(g) Costs of (i) bookkeeping of the accounts of the Association and the annual accounting provided for in the Declaration and in the By-Laws; (ii) legal and accounting services and fees; (iii) premiums of fidelity bonds; and (iv) taxes or assessments of whatever type assessed against or imposed upon the Property.

The Board shall not, without the prior authorization of the members of the Association obtained at a meeting of the members, contract for or pay out of the Common Expense Fund any one item of capital addition or improvement (other than the replacement of the existing improvements to the Property) for a cost in excess of One Thousand Dollars (\$1,000).

Nothing herein shall authorize the Board of Directors to furnish services to any person primarily for the benefit or convenience of any Owner. The Board of Directors shall have the exclusive right and obligation to contract for all goods, services, and insurance in connection with the administration of the Property, and all payments therefor shall be made from the Common Expense Fund.

2.09 Accounting and Audit. The Board of Directors shall keep or cause to be kept books and records of the receipts and expenditures affecting the Property and its administration, which records shall indicate the maintenance and repair expenses of the Property, and any other expenses incurred on behalf of the Property. The books of accounts and all vouchers supporting the entries made therein shall be available to all Owners for examination at the office where said books and vouchers are regularly kept at convenient hours, and the Board of Directors shall establish and publish for general knowledge the days and hours during which such books shall be available for inspection. All such books and records shall be kept in accordance with generally accepted accounting procedures, consistently applied. The fiscal year of the Association shall be the calendar year, unless another period is established by the Board of Directors.

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2.10 Notices. Any notice permitted or required to be given to an Owner may be hand delivered or may be delivered by mail. If notice is given by mail, such notice shall be deemed to have been delivered seventy-two (72) hours after deposit in the U.S. Mail, postage prepaid, addressed to an Owner at the address the Owner shall have given in writing to the Secretary of the Association for the purpose of service of notices. Any address for purposes of notice to an Owner may be changed from time to time by notice in writing to the Secretary of the Association. Any notice permitted or required to be given by the Association or by the Board of Directors may be made in the same manner provided in this Section 2.10 regarding mailing of notice to an Owner.

ARTICLE III

3.01 Use Restrictions.

(a) Use of the Property shall be limited to the Owner, his or her spouse, and children living at home under the age of 25, or if an owner is unmarried, he may select one adult and one child under the age of 18 as skiing companions. These persons must be designated in writing to the Board of Directors and shall be revocable after thirty (30) days actual notice to the Board of Directors or where the death or judicially declared incompetence of the companion, who owns an interest. In the event that an ownership interest is owned by one (1) or more persons, those persons owning a fractional interest in said interest in the Property aggregating more than fifty percent (50%) of the whole ownership thereof, shall appoint one (1) member who shall have the rights of use as if he were the sole owner. Such designation must be made in writing to the Board of Directors and shall be revocable after thirty (30) days actual notice to the Board of Directors or upon the death or judicially declared incompetence of the member.

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In the event that one (1) person owns more than one (1) interest, then that person may appoint another person who shall be entitled to the use of the Property the same as if said person were an owner of an interest. Such designation shall be made in writing to the Board of Directors and shall be revocable after thirty (30) days actual notice to the Board of Directors, or upon the death or judicially declared incompetence of said appointed person. The Board of Directors shall be entitled to rely on any such designation as referred to herein in this Section 3.01(a) until such written notice of revocation becomes effective and the Board of Directors have actual notice. In the event that an interest is owned by a corporation, partnership, or other such entity, then said corporation, partnership, or entity shall appoint either a family or two (2) persons who shall be entitled to the use of the Property the same as if said person or persons were an owner. Such designation shall be made in writing to the Board of Directors and shall be revocable after thirty (30) days actual notice to the Board of Directors, or upon the death or judicially declared incompetence of said appointed person.

In the event that an interest is owned by more than one (1) person or more than one interest is owned by one (1) person or an interest is owned by a corporation, partnership, or other such entity, and such Owner or Owners fail to designate who shall have use of the Property, no member or persons shall be allowed use of the Property on behalf of said person, persons, or entity (except that an Owner of two (2) or more interests may use the Property).

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Any person or persons so designated as referred to in this Section 3.01(a) must be approved by the Board of Directors, in writing, prior to their use of the facilities, and such approval shall not be unreasonably withheld.

(b) The Property is to be used for water-skiing purposes and such other purposes as may be determined beneficial by the Board of Directors and each Owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations, or requirements of any governmental agency or authority with respect to the use of the Property and with provisions of this Declaration and the By-Laws and rules and regulations as are now in effect or as may hereinafter be promulgated, it being recognized that the Association may promulgate additional By-Laws or rules and regulations for the use of the Property as are necessary or desirable in their judgment for the operation of the Property. Such By-Laws and rules and regulations shall be applicable to the Property as if set forth herein.

ARTICLE IV

COMMON EXPENSE FUND;

ASSESSMENTS; COLLECTION

4.01 Common Expense Charges. Except as provided in Section 4.02 below, all Owners are bound to contribute to the Common Expense Fund as Common Expense Charges a 1/12 of the expenses of (a) administration of the Association; (b) the administration, maintenance, and repair of the Property; (c) other expenses provided by the terms hereof to be paid by the Association; and (d) those expenses that the Association agrees to assume pursuant to this Declaration, the By-Laws, and Rules and Regulations. The Common Expense Charges shall be assessed in accordance with the provision of this Article IV.

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No Owner shall be exempt from the obligation to make such contribution to the Common Expense Fund by waiver of the use or enjoyment of the Property, or for any other reason under any other circumstances.

4.02 Payment of Common Expense Charges by Declarant.

Recognizing that, to some degree, the cost of administration and maintenance of the Property is related to the use of the Property by the Owners, the Declarant will only be obligated to pay to the Association the Common Elements Charge or Special Assessment for those interests which the Declarant has designated or appointed persons to be entitled to the use of the Property as provided in Section 3.01. To the extent that the Declarant does not appoint anyone it shall not be assessed for any Common Expense Charges which are related to use and those Owners other than Declarant shall pay a proportionately larger amount in relationship to the number of interests which they own. This provision shall apply only for one (1) year after the first interest is sold and a deed is recorded.

4.03 Budgets, Establishment of Common Expense Charges and Special Assessments. Until the appointment of the First Board in accordance with Section 2.05 above, the Declarant shall have the right and obligation to establish the annual budgets for each fiscal year projecting all expenses for the forthcoming year which may be required for the proper operation, management, and maintenance of the Property. Such budget, and all successive budgets, shall include a reasonable allowance for contingencies and shall establish a reserve fund (the "Reserve Fund") for maintenance, repairs, and replacements to the Property, including those that must be replaced on a periodic basis. Such initial budget, and those adopted thereafter, may also provide for ad valorem tax expenses of the land and building, if the taxing authorities having jurisdiction thereof have not then separately assessed and valued individual interests.

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Commencing with the appointment of the First Board, the Board of Directors shall establish an annual budget in advance for each calendar year. Such budget shall project all expenses for the forthcoming year for the proper operation, management, and maintenance of the Property, and shall include a reasonable allowance for contingencies and an allowance for a reasonable addition to the Reserve Fund. Such budget, and those adopted thereafter, may also provide for ad valorem tax expenses of the land and any buildings if the taxing authorities having jurisdiction thereof have not then separately assessed and valued individual interests. The Common Expense Charge for each year shall be established by the adoption of such annual budget by the Board of Directors. Copies of each such budget shall be delivered to each Owner by such reasonable means as the Board of Directors may provide. In the event that the Board of Directors at any time reasonably determines that the Common Expense Charges so levied are or may prove to be insufficient to pay the costs of operation and management of the Property for a fiscal year or in the event of casualty losses, condemnation losses, or other events (including the non-payment of Common Expense Charges by other Owners) which require additional funds for preservation and operation of the Property, the Board of Directors shall have the authority at any time to levy such Special Assessments as the Board of Directors deems necessary for such purposes. Such Special Assessment shall not be levied, however, without the prior approval of Owners having at least a majority of the votes of the Association, unless a greater number of votes is required by law.

Failure or delay of the Board of Directors to prepare the annual budget or to deliver copies of waiver or release in any manner of any Owner's obligation to pay Common Expense Charges whenever the same shall be determined. In the event of any delay or failure to establish the annual budget, each

Owner shall continue to pay the Common Expense Charge, monthly at the rate established for the previous period until a new annual budget is established.

4.04 Payment of Common Expense Charges and Special Assessments. After each annual budget is adopted, the Declarant or the Association, as the case may be, shall determine the Common Expense Charge required for the operation and maintenance of the Property and for the allowance for contingencies and Reserve Fund for each calendar year. The Common Expense Charge shall be allocated among the Owners according to their respective percentage ownership. Common Expense Charges shall be due and payable monthly in advance on the first day of each calendar month (or such other day as the Board of Directors may designate by written notice to all Owners in accordance with Section 2.10 above) during the year for which the Common Expense Charges has been assessed. Special Assessments shall be payable on or before ten (10) days after Owners are invoiced therefor. Payment of Common Expense Charges and Special Assessments shall be in default if such Common Expense Charges and Special Assessments, or any part thereof, are not paid on or before the date specified in the notice thereof for such payment. Common Expense Charges and Special Assessments in default shall bear interest at a rate of ten percent (10%) per annum from the due date until paid. In addition to the foregoing interest charge, in the event that any Common Expense Charge is not paid by the 15th day of such month, or in the event that a Special Assessment is not paid within five (5) days after the due date thereof specified in the notice to the Owners, then, at the election of the Board of Directors, the Common Expense Charge due from the delinquent Owner for the balance of the current calendar year shall be accelerated, shall become at once due and payable, and from the 15th of such month in the case of a delinquent Common Expense Charge, or five (5) days after the due date of a Special Assessment, shall bear interest at the rate of twelve percent (12%) per annum. The Board of Directors shall also have the right, in

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its discretion, by appropriate resolution to establish late fees or delinquency charges to be imposed in addition to the interest to which such delinquent Common Expense Charges and Special Assessments are subject. Each Owner (whether one or more persons) shall be personally liable for the payment of all Common Expense Charges and Special Assessments, interest and late fees (or delinquency charges) which may be levied against such Owner and his interest pursuant to the provisions of this Declaration. If the Board of Directors accelerate the Common Expense Charges due from the delinquent Owner, said Owner or his appointee shall not be allowed to use the Property until said default is cured.

4.05 Enforcement. In order to secure the payment of the Common Expense Charges and Special Assessments levied hereunder (including interest, late fees and delinquency charges), a vendor's lien and superior title shall be and is hereby reserved in and to each interest (being a portion of the purchase price therefor) and assigned to the Association, without recourse, which lien shall be enforceable through appropriate judicial proceedings by the Association or any Owner on behalf of the Association or by public sale without judicial proceedings. Each Owner, by accepting conveyance of an interest, irrevocably grants to the Association a power of sale, so that the lien for any unpaid sums required to be paid by this Declaration may be foreclosed at public sale without judicial proceedings in the manner prescribed by the laws of the State of Texas. The Association may be the bidder at any such foreclosure sale and may have the amount for which the interest in question is sold credited on the sums owing to the Association. Said lien and superior title shall be deemed subordinate to the first lien or liens of any bank, insurance company, savings and loan association, university, pension or profit-sharing trust or plan, or other lender which may have heretofore or may hereafter lend money in good faith for the purchase of any interest. The collection of such Common Expense Charges and/or Special Assessments may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment, and, in the event of such suit, the expenses incurred

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in collecting such delinquent assessments, including interest, costs and attorneys' fees shall be chargeable to and be a personal obligation of the defaulting Owner. Except in the circumstances in which a good faith dispute exists as to the amount of the Common Expense Charges or any Special Assessments for which an Owner is liable, an Owner in default in the payment of the Common Expense Charge or any Special Assessment shall not be entitled to vote at any meeting of the Association so long as such default continues to exist.

4.06 Common Expense Fund. The Common Expense Charges collected from the Owners shall be paid into the Common Expense Fund to be held and used for the benefit, directly or indirectly, of the Property. Such Common Expense Fund may be expended by the Board of Directors for the purposes set forth herein, including, but not limited to, providing for the (a) enforcement of the provisions of this Declaration, the By-Laws and the Rules and Regulations, (b) maintenance, operation, repair, benefit and welfare of the Property, and (c) generally for those things that the Board of Directors determines to be necessary or desirable to maintain or improve the Property. The use of the Common Expense Fund for any of these purposes, except as provided herein, is permissive and not mandatory, and the decisions of the Board of Directors with respect thereto shall be final, so long as such decisions are made in good faith.

ARTICLE V

INSURANCE

5.01 General Provisions. The Board of Directors of the Association shall have authority to obtain and maintain the following insurance for the Property:

(a) Insurance on any building or improvement against loss or damage by fire and loss or damage by all risks now or hereafter embraced by Texas Multi-Peril Form and any similar extended coverage policy (with vandalish and malicious mischief endorsements), in amounts sufficient to prevent the Association or the

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Owners from becoming a co-insurer within the terms of the applicable policies, but in any event in an amount not less than the full insurable replacement cost of the buildings and improvements. The "full insurable replacement cost" of the building and improvements shall be determined from time to time, but at least once in a twelve (12) month period by the Board of Directors, and the Board of Directors shall have the authority to obtain and pay for an appraisal by a person or organization selected by the Board of Directors to make such determination. The cost of any and all such appraisals shall be paid for out of the Common Expense Fund.

(b) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or any Owner, or the family, agent, employee or invitee of any Owner, occurring in, on, or about the Property or buildings, or upon, in or about the driveways, roadways, walkways and passageways, on or adjoining the Property, which public liability and property damage insurance shall afford protection to such limits as the Board of Directors deems desirable and appropriate, but not less than One Million Dollars (\$1,000,000). Such liability and property damage insurance policy shall contain a cross-liability endorsement, wherein the rights of named insureds under the policy or policies shall not prejudice his, her or their action or actions against another named insured..

(c) Such workman's compensation insurance as may be necessary to comply with applicable federal, state and local laws.

(d) Employer's liability insurance in such amounts as the Board of Directors deems desirable and appropriate.

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(e) Such other insurance in such reasonable amounts as the Board of Directors deems desirable and appropriate.

The premiums for all insurance acquired on behalf of the Association or the Owners pursuant to the provisions hereof shall be paid for out of the Common Expense Fund.

All insurance provided for in this Section 5.01 shall be valid and enforceable policies issued by issuers of recognized responsible insurance companies authorized to do business in the State of Texas. Policies of insurance of the character described in Subsections (a) and (b) of this Section 5.01 shall (i) name as insureds the Association and each Owner of an interest; (ii) contain a standard mortgagee clause endorsement in favor of the mortgagee or mortgagees of each interest, if any, as their respective interests may appear; (iii) be without contribution with regard to any other such policies of insurance carried individually by any Owner, whether such other insurance covers the interest owned by such Owner and/or the additions and improvements made by such Owner to his interest; (iv) provide that such policy shall not be terminated for non-payment of premiums or for any other cause without at least thirty (30) days prior written notice to the Association and at least ten (10) days prior written notice to the mortgagee or each interest; and (v) provide a waiver of subrogation against any Owner of an interest. If possible, all policies of insurance of the character described in Section 5.01(a) above, shall contain an endorsement extending coverage to include the payment of Common Expense Charges during the period of reconstruction with respect to Properties that are damaged.

5.02 Individual Insurance. Owners may carry individual policies of liability insurance insuring against the liability of such Owners, at their own cost and expense.

ARTICLE VI

EMINENT DOMAIN

6.01 General Provisions. If all or any part of the Property is taken or threatened to be taken by eminent domain

or by power in the nature of eminent domain, whether permanent or temporary, the Board of Directors and each Owner shall be entitled to participate in proceedings incident thereto at their own respective expense. The Board of Directors shall give notice of the existence of such proceeding to all Owners and to all mortgagees known to the Board of Directors to have an interest. The expense of participation in such proceedings by the Board of Directors shall be paid for out of the Common Expense Fund. The Board of Directors is specifically authorized to obtain and pay for assistance from attorneys, appraisers, architects, engineers, expert witnesses, and other persons as the Board of Directors, in its discretion, deems necessary or advisable to aid or advise the Board of Directors in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Board of Directors, acting as trustee, and such damages or awards shall be applied or pass as provided in this Article VI.

6.02 Taking of Property. The Board of Directors shall, in addition to the general powers set forth in this Declaration, have the sole authority to determine whether to defend or resist any such proceedings, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any taking of Property, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages are awarded, they shall be paid to each Owner in proportion to his Percentage Ownership Interest. The Board of Directors may, if it deems advisable, call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore the Property so taken or damaged to the extent possible. In the event it is determined that such Property should be replaced or restored by obtaining other land or building additional structures, this Declaration shall be duly amended by instrument executed by the Board of Directors on behalf of the Owners to reflect the addition to such land or building.

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ARTICLE VII

OBSOLESCENCE

7.01 Determination of Non-Obsolescence and Decision

to Renovate the Property. Owners representing aggregate Percentage Ownership Interests of ninety percent (90%) or more of the Property may agree that the Property is not obsolete and that the same can and should be renewed or reconstructed. In such instance, the expenses of renovation or reconstruction shall be paid out of the Common Expense Fund and a Special Assessment may be assessed therefor; provided, however, that any Owner not agreeing to such renewal or reconstruction may give written notice to the Board of Directors within ten (10) days following such decision to renovate, which notice shall state that such Owner shall sell his interest to the Association for a cash price equal to the fair market value of the interest. If such Owner and the Board of Directors acting as agent of and on behalf of the Association can agree on the fair market value therefor, then such sale shall be consummated within thirty (30) days after the Owner and the Board of Directors agree upon such value. If such Owner and the Board of Directors are unable to agree on the price for the interest, the date when either party notifies the other that either is unable to agree with the other as to such price or terms shall be the "Commencement Date", from which all periods of time provided for in this Section 7.01 shall be measured. Within ten (10) days from the Commencement Date, the Owner and the Board of Directors shall designate in writing (and give notice of such designation to the other party) the appraiser selected by each such party. Each such appraiser shall be a member of the Texas Board of Realtors. If either party fails to make such designation within the foregoing ten (10) day period, then the appraiser designated by the non-defaulting party shall, within five (5) days after the expiration of such ten (10) day period, appoint another appraiser, who shall also be a member of the Texas Board of Realtors. If the two appraisers designated by the Owner and the Board of Directors (or selected pursuant to

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the provisions of the preceding sentence) are unable to agree upon the price of such Residence, then they shall appoint a third appraiser, who shall be subject to the same qualifications as herein set forth for the first two appraisers. If the two appraisers are unable to agree upon a third appraiser within five (5) days from the date that such first two appraisers are appointed, then either the Owner or the Board of Directors, on behalf of both, may request such appointment of the third appraiser by the Senior Judge of the United States District Court for the Southern District of Texas, Houston Division. In the event of the failure, refusal or inability of any appraiser so appointed to act, a new appraiser shall be appointed in his place, which appointment shall be made in the same manner as provided for in this Section 7.01 for the appointment of such appraiser so failing, refusing or unable to act. Each party shall pay the fees and expenses of the original appraiser and any successor appointed by such party. The fees and expenses of the third appraiser, and all other expenses, if any, shall be borne equally by the Owner and the Board of Directors. The expenses of the Board of Directors shall be paid for out of the Common Expense Fund. A decision joined in by two of the three appraisers shall be the decision of the appraisers. If no two appraisers agree, then the average of the two closest in mathematical determinations shall constitute the decision of the appraisers. After reaching a decision, the appraisers shall give written notice thereof to the Owner and the Board of Directors, whereupon the sale of such interest shall be consummated at such price within fifteen (15) days thereafter at a title company located in Brazoria County, Texas, selected by the Board of Directors.

7.02 Determination of Obsolescence and Decision to Sell. Owners representing aggregate Percentage Ownership Interests of ninety percent (90%) or more of the Property may agree that the Property is obsolete and that the entire Property should be sold. In such instance, the Board of Directors shall forthwith file and record with the County Clerk of Brazoria County, Texas,

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a notice setting forth such fact or facts, and upon the filing of such notice, the entire Property shall be sold by the Board of Directors as attorney-in-fact for all Owners, free and clear of the provisions contained in this Declaration. Upon such sale, this Declaration shall be terminated. The net sales proceeds from the sale of the entire Property shall be apportioned among the Owners on the basis of each Owner's Percentage Ownership Interest, with such apportioned proceeds to be paid into separate accounts for each interest. Each such account shall be in the name of the Association and shall be further identified by the name of the Owner. From each separate account, the Board of Directors as attorney-in-fact for each of the Owners shall use and disburse the total funds in each of such accounts, without contribution from one account to another. Such proceeds shall be disbursed in the following manner: First, to the payment of any taxes or assessments by governmental authorities owing with respect to that interest; second, to amounts due under any first mortgage against the interest; third, to the payment of any Common Expense Charges or Special Assessments charged to or made against the interest and unpaid; fourth, to any mortgage against the interest other than a first mortgage; and fifth, to the Owner of such interest.

ARTICLE VIII

APPLICATION OF PROCEEDS

OF SALE OF AN INTEREST

8.01 Application of Proceeds of Sale. Notwithstanding any provision in this Declaration or the By-Laws to the contrary, upon the sale or conveyance of an interest by an Owner other than the Declarant, the proceeds of such sale or conveyance shall be applied as follows:

- (a) First, to assessments, liens and charges in favor of the State of Texas and any political subdivision thereof for taxes past due and unpaid on the interest;

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(b) Second, to amounts due under any first mortgage against such interest, unless such first mortgage is to remain outstanding;

(c) Third, to the payment of any unpaid Common Expense Charges and Special Assessments charged to or made against the interest and the Owner thereof;

(d) Fourth, to any mortgage against the interest other than a first mortgage; and

(e) Fifth, to the Owner of such interest.

If such unpaid Common Expense Charges or Special Assessments are not paid or collected at the time of sale or conveyance of an interest, the grantee of such sale or conveyance shall be jointly and severally liable with the selling Owner for all unpaid Common Expense Charges and Special Assessments against the interest up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the selling Owner the amounts paid by the grantee therefor.

In the event of a foreclosure of a first and prior lien on any interest, the purchaser at such foreclosure sale and any any such successor-in-title to such interest from the purchaser at such foreclosure sale (except the Owner upon whom such lien was foreclosed) shall not be liable for the Common Expense Charges or Special Assessments chargeable to such interest which became due prior to such foreclosure or any conveyance in lieu of foreclosure.

8.02 Perpetuity Savings Clause. Unless sooner terminated by the termination of this Declaration, the terms and provisions of Section 8.01 above shall remain in effect for the period of the lives of the now-living children of John W. Able of Brazoria County, Texas, whichever of said children shall live longer, plus twenty-one (21) years, from and after the date of execution of this Declaration.

ARTICLE IX

AMENDMENT OF DECLARATION, BY-LAWS

AND RULES AND REGULATIONS

9.01 Amendment of Declaration. Except as otherwise provided by law, the provisions of this Declaration, except for the Percentage Ownership Interest, may be amended only by an instrument in writing signed and acknowledged by an aggregate number of members having not less than seventy-five percent (75%) of the total votes of all interests, weighed in accordance with their Percentage Ownership Interests and entitled to vote on such amendment. Except in the event of redistribution of Percentage Ownership Interests in connection with the occurrence of a fire, casualty or eminent domain taking, in order to amend the allocation of the Percentage Ownership Interests in the Property, it shall be necessary not only that an aggregate number of members having not less than seventy-five percent (75%) of the votes of all interest, weighed in accordance with their Percentage Ownership Interests and entitled to vote on such amendment execute an instrument in writing, but, in addition, the Owners of those interests whose Percentage Ownership Interests are amended by such amendment must join in such amendment.

9.02 Amendment of By-Laws. The By-Laws of the Association may be amended from time to time by the affirmative vote of an aggregate number of members having sixty percent (60%) of the votes of all interests, weighed in accordance with their Percentage Ownership Interests and entitled to act on such matters at a meeting of the Association as provided in this Declaration.

9.03 Amendment of Rules and Regulations. The Rules and Regulations as originally promulgated by the Declarant may be amended from time to time by the Board of Directors as set forth in the By-Laws. The Rules and Regulations are of equal dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration, but in the event of a conflict, this Declaration shall control. Each Owner, by accepting

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conveyance of an interest, agrees to comply with and abide by the Rules and Regulations as such Rules and Regulation may, from time to time, be amended.

ARTICLE X

MISCELLANEOUS

10.01 Estoppel Certificate. Any mortgagee and any prospective purchaser of an interest shall be entitled, upon written request therefor, to a statement from the Board of Directors setting forth the amount of any Common Expense Charges or Special Assessments not paid by the Owner in which such prospective purchase or mortgagee has an interest. Any such purchaser shall not be liable for any unpaid Common Expense Charges or Special Assessments made by the Board of Directors against the particular interest involved in excess of the amount set forth in such statement, and the interest conveyed shall not be subject to the lien provided for in Section 4.05 above for any amount in excess of the amount set forth in such statement. Any such purchaser shall, however, be liable for any Special Assessments or Common Expense Charges becoming due after the date of any such statement.

10.02 No Partition. Except as otherwise provided to the contrary in this Declaration the Property shall remain undivided and shall not be subject to an action for partition or division of the co-ownership thereof, so long as the Property is subject to this Declaration, in accordance with the provision hereof. In any event, all mortgages secured by an interest in the Property must be paid in full prior to bringing any action for partition or the consent of all holders of such mortgages must be obtained; provided, however, that if any interest is owned by two (2) or more Owners as tenants-in-common or as joint tenants, nothing contained herein shall be deemed to prevent a judicial partition of such interest as between such co-tenants.

10.03 Correction of Errors. The Declarant reserves, and shall have the continuing right, until appointment of the First Board in accordance with Section 2.05(a) above, without

the consent of the other Owners of interest or the representatives of any mortgagee, to amend this Declaration or the By-Laws for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors, or omissions herein. No such Amendment shall change the stated numbers of interests to be sold or the Percentage Ownership Interests in the Property attributable thereto.

10.04 Enforcement. The Board of Directors or any Owner shall have the right to enforce, by any proceedings at law or in equity, all of the terms and provisions of this Declaration. Failure of the Board of Directors or of any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction thereafter.

10.05 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

10.06 Gender. Wherever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

10.07 Mortgagee Matters. Any mortgagee, upon reasonable notice, shall be entitled to examine the books and records of the Association. Furthermore, each mortgagee shall be entitled, with respect to any interest as to which it has a mortgage, to written notification from the Association of any default in the performance by an Owner of any obligation under this Declaration, the Articles of Incorporation of the Association, or the By-Laws, and the Association shall furnish such notice to such mortgagee concurrently with the furnishing thereof to any such defaulting Owner, provided the Association has been requested in writing by such mortgagee to do so and has been furnished the name and mailing address of such mortgagee.

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10.08 Limitation on Contract Term. Except as otherwise set forth in Section 2.01 above, any contract made by the Association for professional management, or providing for services by the Declarant, shall be terminable on thirty (30) days written notice and shall have a maximum term of no more than three (3) years.

10.09 Easements. Prior to the appointment of the First Board in accordance with Section 2.05(a) above, the Declarant shall have the right to grant to utility companies and other similar entities, such easements, rights-of-way, and other rights as may be reasonably necessary to service the Property and establish, operate or maintain same without the consent or joinder of any other Owners or the representatives of any mortgagee.

10.10 The Declarant's Right to Lease or Rent Interests. The Declarant shall have the right to rent or lease interests owned by the Declarant to such parties and upon such terms and conditions as the Declarant may elect. All tenants or lessees of the Declarant shall have access to the use of the Property in the same manner as the Owners, and shall be bound by the terms of this Declaration, the By-Laws, and the Rules and Regulations.

10.11 Covenant Running with the Land. Subject to the change pursuant to Article IX above, the terms and provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon the Declarant, all Owners, mortgagees, and their respective heirs, legal representatives, successors, and assigns.

10.12 Resolution of Disputes. In addition to the powers of the Board of Directors conferred by law or under this Declaration, the Board of Directors shall be empowered to create reasonable procedures for resolving disputes between Owners.

All conveyances, including this conveyance, shall be subject to the following reservations, rights of way, easements, and restrictions:

- (1) the reservation of all mineral interests
by the Declarant;

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(2) all mineral interests, leases, royalties, bonuses, rentals, and all other matters of record in the Deed Records of Brazoria County, Texas; and

(3) road rights of way, utility easements, liens, and restrictions appearing of record or affecting the Property herein described.

EXECUTED by said Declarant on the 19th day of

May, 1983.

SKI DEVELOPMENT, INC.
4350 FIRST CITY TOWER
HOUSTON, TEXAS 77002

By: John W. Able, Pres
JOHN W. ABLE, PRESIDENT

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF Brazoria §

This instrument was acknowledged before me on the 19 day of May, 1983, by JOHN W. ABLE, President of SKI DEVELOPMENT, INC., a Texas corporation, on behalf of said corporation.



Jane Hanson
JANE HANSON
Notary Public for the State of Texas
My Commission Expires 11-17-84

NOTARY PUBLIC

DEED

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EXHIBIT A

31.05 acres of land out of the J.M. Speers Subdivision of the T.F. Pickney Survey, Abstract 663, Brazoria County, Texas.

TRACT ONE - containing 30.50 acres.

COMMENCING at the southeast corner of Lot 9 of said J.M. Speers Subdivision, said corner being on the centerline of County Road 121;

THENCE south 89° 57', west 356.32 feet along the south boundary of Lot 9 of said J.M. Speers Subdivision to a point for corner, said point being the POINT OF BEGINNING of the tract described herein;

THENCE south 89° 57', west 2360.00 feet continuing along the south boundary of Lots 9 and 14 of said J.M. Speers Subdivision to a point for corner;

THENCE north 00° 03', west 644.60 feet to a point for corner;

THENCE north 89° 57', east 2060.00 feet along and with the south boundaries of Lots 1 thru 8, Block 1 of the J.M. Speers Subdivision to a point for corner;

THENCE south 00° 03', east 595.00 feet to a point for corner;

THENCE north 88° 57', east 240.00 feet to a point for corner;

THENCE north 00° 03', west 43.58 feet to a point for corner;

THENCE following a non-tangent curve to the left, said curve having a radius of 60.00 feet and a chord bearing north 88° 57' east for a distance of 60.00 feet to a point for corner;

THENCE south 00° 03', east 93.18 feet to the POINT OF BEGINNING of the tract described herein, said tract containing 30.50 acres, more or less.

TRACT TWO - containing 0.55 acres.

COMMENCING at the southeast corner of Lot 9 of the J.M. Speers Subdivision, said point being on the centerline of County Road 121;

THENCE south 89° 57', west 656.32 feet along the south boundary of said J.M. Speers Subdivision to a point for corner;

THENCE north 00° 03', west 344.60 feet to a point for corner, said point being the POINT OF BEGINNING of the tract herein described;

THENCE continuing north 00° 03', west 100.00 feet to a point for corner;

THENCE north 89° 57', east 240.00 feet to a point for corner;

THENCE south 00° 03', east 100.00 feet to a point for corner;

THENCE south 89° 57', west 240.00 feet to the POINT OF BEGINNING of the tract described herein containing 0.55 acres, more or less.

Filed For Record at 1:11 o'clock P.M.
March 19 1982 Dolly Bailey
Clerk County Court, Brazoria County,
Texas - By [Signature] Deputy