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189-15-1909

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR MISSION BEND, SECTION TEN, A SUBDIVISION  
IN HARRIS COUNTY, TEXAS

THE STATE OF TEXAS    I  
COUNTY OF HARRIS    I

THIS DECLARATION, made on the date hereinafter  
set forth by LANCASTER HOMES, INC., a Texas corporation,  
and having its principal office in Harris County, Texas,  
hereinafter called "Declarant".

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RECORDED  
HARRIS COUNTY, TEXAS

189-15-1910

WITNESSETH:

WHEREAS, Declarant is the owner of that certain property known as Mission Bend, Section Ten, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 265, Page 14, of the Map Records of Harris County, Texas; and

WHEREAS, it is the desire of Declarant to place certain restrictions, covenants, conditions, stipulations and reservations upon and against such property in order to establish a uniform plan for the development, improvement, and sale of such property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of lots in said subdivision.

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon MISSION BEND, SECTION TEN, and declares the following reservations, easements, restrictions, covenants and conditions, applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land, which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to MISSION BEND HOMEOWNERS ASSOCIATION, its successors and assigns, provided for in Article V hereof.

Section 2. "Properties" shall mean and refer to MISSION BEND, SECTION TEN subject to the Reservations set forth herein and/or in the Subdivision plat, and any additional properties made subject to the terms hereof pursuant to the provisions set forth herein.

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Section 3. "Lot" and/or "Lots" shall mean and refer to the Lots shown upon the Subdivision Plat which are restricted hereby to use for residential purposes.

Section 4. "Owner" shall mean and refer to the record owner whether one or more persons or entities, of fee simple title to any Lot which is the part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 5. "Subdivision Plat" shall mean and refer to the map or plat of MISSION BEND, SECTION TEN, recorded in Volume 265, Page 14, of the Map Records of Harris County, Texas.

Section 6. "Architectural Control Committee" shall mean and refer to the MISSION BEND, SECTION TEN, Architectural Control Committee provided for in Article IV hereof.

## ARTICLE II

### RESERVATIONS, EXCEPTIONS AND DEDICATIONS

Section 1. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Subdivision Plat, further, establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property and/or any part thereof, whether specifically referred to therein or not.

Section 2. Declarant reserves the easements and rights-of-way as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines.



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gas, sewers, or any other utility Declarant sees fit to install in, across and/or under the Properties.

Section 3. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements, but such changes and additions must be approved by the Federal Housing Administration and Veterans Administration.

Section 4. Neither Declarant nor any utility company using the easements herein referred to, shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, scrubbery, trees or flowers or other property of the owner situated on the land covered by said easements.

Section 5. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by or under Declarant or any easement owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties, and where not affected the right to maintain, repair, sell or lease such appurtenances to any municipality, or other governmental agency or to any public service corporation or to any other party, and such right is hereby expressly reserved.

#### ARTICLE III

##### USE RESTRICTIONS

Section 1. Land Use and Building Type. All Lots shall be known and described as Lots for residential purposes only (hereinafter sometimes referred to as "residential lots"), and no

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structure shall be erected, altered, placed or permitted to remain on any residential Lot other than one single-family dwelling not to exceed two (2) stories in height and a detached or an attached garage for not less than two or more than four cars. Carports on residential Lots are prohibited. As used herein, the term "residential purposes" shall be construed to prohibit the use of said Lots for duplex houses, garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purpose. No building of any kind or character shall ever be moved onto any lot within said subdivision, it being the intention that only new construction shall be placed and erected thereon.

Section 2. Architectural Control. No building shall be erected, placed or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structure thereon have been approved by the Architectural Control Committee as to harmony with existing structures with respect to exterior design, location with respect to topography and finished grade elevation and as to compliance with minimum construction standards more fully provided for in Article IV hereof.

Section 3. Dwelling Size. The living area of the main residential structure, exclusive of open porches and garages, shall not be less than 1800 square feet for a one-story dwelling, nor shall the lower living area of the main residential structure of a two (2) story dwelling be less than 1100 square feet, nor shall the lower living area plus the upper living area of the main residential structure of a two (2) story dwelling be less than 2200 square feet.

Section 4. Type of Construction, Materials and Landscape.

(a) No external roofing material other than wood shingles, shall be constructed or used on any building in any part of the Properties without the written approval of the Architectural Control Committee.



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(b) A concrete sidewalk four (4) feet wide shall be constructed parallel to the curb along the entire fronts of all Lots. In addition thereto, four (4) foot sidewalks shall be constructed parallel to the curb along the entire side of all corner lots, and the plans for each residential building on each of said lots shall include plans and specifications for such sidewalk and same shall be constructed and completed before the main residence is occupied.

(c) No window or wall type air conditioners shall be permitted to be used, erected, placed or maintained in or on any building in any part of the Properties.

(d) Each kitchen in each dwelling unit or living quarters on any lot shall be equipped with a garbage disposal unit, which garbage disposal unit shall at all times be kept in a serviceable condition.

(e) No fence or wall shall be erected, placed or altered on any Lot nearer to the street than the minimum building setback lines as shown on the recorded plat. The erection of a chain link fence facing upon a street on any Lot is expressly prohibited. A ~~soffit~~ wood or masonry fence, ~~at least six (6) feet in height,~~ shall be constructed and thereafter maintained in a good state of repair on and along the rear lot lines of Lots Seven (7) and Nine (9) through Sixteen (16), Block Twenty-Two; and a similar fence shall also be constructed along the most northerly boundary lines of Lots One (1), Twelve (12) through Sixteen (16), Block Twenty-One; and along the rear lot lines of Lots Thirty-One (31), Thirty-Two (32), Forty-Five (45) through Fifty-Two (52), Block Twenty-One.

Section 5. Location of Improvements. No building shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum building setback line shown on the recorded plat. No building shall be located on any Lot nearer than ten (10) feet to any side street line. The main residential structure (exclusive of detached garages and out buildings) shall

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be located no less than fifteen (15) feet from the rear property line. No part of the house building shall be located nearer than five (5) feet to an interior lot line except where the adjoining house building is located more than five (5) feet from the same interior lot line, in which event one house building may be located no nearer than three (3) feet from said interior lot line, provided that the adjoining house building is located at least seven (7) feet from the same interior lot line to the effect that a minimum of ten (10) feet is maintained between adjacent main residential house buildings. A garage or other permitted accessory building located seventy (70) feet or more from the front lot line may be a minimum distance of three (3) feet from an interior lot line. For the purposes of this covenant eaves, steps and unroofed terraces shall not be considered as part of a building provided, however, that this shall not be construed to permit any portion of the construction on a lot to encroach upon another lot.

Section 6. Minimum Lot Area. No Lot shall be resubdivided nor shall any building be erected or placed upon any Lot having area of less than 6,000 square feet; provided, however, that nothing contained herein shall be construed to prohibit the resubdivision of any Lot or Lots within the Properties if such resubdivision results in each Lot containing not less than the minimum Lot area aforesaid; it being the intention of this restriction that no building plot within the Properties contain less than the aforesaid minimum area.

Section 7. Annoyance or Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance to the neighborhood.

Section 8. Temporary Structures. No structure of a temporary character whether trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot as a residence, or for any other purpose, either temporarily or



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permanently; provided, however, that Declarant reserves the exclusive right to erect, place or maintain such facilities in or upon any portion of the Properties, as in its sole discretion, determines may be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Properties. Such facilities may include, but not necessarily be limited to sales and construction offices, storage areas, model units, signs and portable toilet facilities. No truck, trailer, boat, automobile or other vehicle shall be stored, parked, or kept on any Lot or in the street in front of the Lot unless such vehicle is in day-to-day use off the premises and such parking is only temporary, from day-to-day; provided, however, that nothing herein contained shall be construed to prohibit the storage of an unused vehicle in the garage permitted on any Lot covered hereby.

Section 9. Signs and Billboards. No signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot or plot except (1) one sign of not more than ten (10) square feet advertising the particular lot or plot on which the sign is situated for sale or rent and (ii) one sign of not more than five (5) square feet to identify the particular lot or plot as may be required by the Federal Housing Administration or Veterans Administration during the period of actual construction of a single-family residential structure thereon. The right is reserved by Declarant to construct and maintain such signs, billboards, or advertising devices as is customary in connection with the general sale of property in this subdivision. In no event shall any sign, billboard poster or advertising device of any character, other than as specifically prescribed in the first sentence of this Section Nine (9) be erected, permitted or maintained on any Lot or plot without the express written consent of the Architectural Control Committee. The term "Declarant" as used in this Section Nine shall refer to said entities and such successors or assigns of



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such entities to whom the right under this Section Nine are expressly and specifically transferred.

Section 10. Oil and Mineral Operations. No oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 11. Storage and Disposal of Garbage and Refuse. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. No Lot shall be used for the open storage of materials whatsoever, which storage is visible from the street, except that new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall be either removed from the Lot or stored in a suitable enclosure on the Lot.

Section 12. Electricity. An underground electric distribution system will be installed in that part of MISSION BEND, SECTION TEN, designated herein as Underground Residential Subdivision, which underground service area embraces all of the lots which are platted in MISSION BEND, SECTION TEN. In the event that there are constructed within the Underground Residential Subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments; then the underground service area embraces all of the dwelling units

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involved. The owner of each lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner/Developer shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized junction boxes, such point of attachment to be made available the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Developer has either by designation on the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned and installed service wires. In addition, the owner of each Lot containing a single-family dwelling unit, or in the case of a multiple dwelling unit structure the Owner/Developer shall at his or its own cost furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each dwelling unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 240/120 volt, three wire, 60 cycle, alternating current.



The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to the Developers (except certain conduits, where applicable, and except as hereinafter provided) upon Developer's representation that the Underground Residential Subdivision is being developed for residential dwelling units, including homes, and if permitted by the restrictions applicable to such subdivision, townhouses, duplexes and apartment structures, all of which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent and all of which multiple dwelling unit structures are wired so as to provide for separate metering to each dwelling unit.

#### ARTICLE IV

##### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Approval of Building Plans. No building shall be erected, placed or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structure have been approved in writing as to the harmony of exterior design with existing structures, as to location with respect to topography and finished ground elevation and as to compliance with minimum construction standards by MISSION BEND, SECTION TEN Architectural Control Committee. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative prior to the commencement of construction. The Architectural Control Committee may require the submission of plans, specifications and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect at its entire discretion. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same are



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submitted to it and received by it, approval will not be required and the requirements of this Section will be deemed to have been fully complied with.

Section 2. Committee Membership. The Architectural Control Committee shall be initially composed of Eddie Franz, Bill Abbott and Gary Wilkerson.

Section 3. Replacement. In the event of the death or resignation of any member or members of said committee, the remaining member or members shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 4. Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 5. Term. The duties and powers of the Architectural Control Committee and of the designated representative shall cease on and after ten (10) years from the date of this instrument. Thereafter, the approval described in this covenant shall not be required, and all power vested in said committee by this covenant shall cease and terminate; PROVIDED, that any time after January 1, 1986, two-thirds (2/3) vote of the members present and voting, the Homeowners Association may assume the duties and powers of the Architectural Control Committee.

#### ARTICLE V

#### MISSION BEND HOMEOWNERS ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of any of the Properties which are subject or which will be subject upon the completion of improvement thereon, to maintenance charge assessment by the Association, including contract Sellers, shall be a member of the Mission Bend Homeowners

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Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association. Ownership of such land shall be the sole qualification for membership.

Section 2. Voting Rights. The Association shall have two classes of membership.

CLASS A: Class A members shall be all those Owners as defined in Section 1, with the exception of Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

CLASS B: The Class B member shall be Lancaster Homes, Inc., the Declarant defined in the Declaration. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Section 1; provided, however, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) On January 1, 1986.

The Class A and Class B members shall have no rights as such to vote as a class, except as required by the Texas Non-Profit Corporation Act, and both classes shall vote upon all matters as one group.

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Section 3. Non-Profit Corporation. Mission Bend Homeowners Association, a non-profit corporation, has been organized and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

Section 4. By-Laws. The Association shall make whatever rules or by-laws it may choose to govern the organization, provided, that same are not in conflict with the terms and provisions hereof.

Section 5. Inspection of Records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during the normal business hours.

#### ARTICLE VI

##### MAINTENANCE CHARGE

Section 1. Each Lot in MISSION BEND, SECTION TEN, is hereby subjected to an annual maintenance charge and assessment for the purpose of creating a fund to be designated and known as the "maintenance fund", which maintenance charge and assessment will be paid by the Owner or Owners of each Lot within MISSION BEND, SECTION TEN to Mission Bend Homeowners Association on or before the first day of each month, in advance monthly installments, commencing on the first day of the month following conveyance of the first property to a homeowner; provided, however, that the amount of such maintenance charge and assessment shall, anything to the contrary notwithstanding, be chargeable and payable by the Owner or Owners of any Lot at one-half (1/2) the assessed rate until the first day of the month following completion and occupancy of a permanent structure thereon. The rate at which each Lot will be assessed will be determined annually, and may be adjusted from year to year by the Association as the needs of the subdivision may, in the judgement of the Association.



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require; provided that such assessment will be uniform and in no event will such assessment or charge exceed \$12.00 per Lot per month, or \$144.00 per Lot per year, unless increased as provided below. The maximum maintenance charge may be increased by 10% each year by a vote of 2/3rds of each class of members of the Association who are voting in person or by proxy, at a meeting duly called for this purpose. The Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of MISSION BEND, SECTION TEN, as well as all subsequent sections of MISSION BEND Subdivision; provided, however, that each future section of MISSION BEND, to be entitled to the benefit of this maintenance fund, must be impressed with and subjected to the annual maintenance charge and assessment on a uniform, per Lot basis, equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of the Association. Future sections of MISSION BEND Subdivision may be annexed to the Properties with the consent of two-thirds (2/3) of each class of membership, however, upon submission and approval by the Federal Housing Administration and/or the Veterans Administration of a general plan of the entire development, and approval of each stage of development such future sections of MISSION BEND Subdivision may be annexed by the Developer without such approval by the membership. The uses and benefits to be provided by said Association shall include, by way of clarification and not limitation and at its sole option, any and all of the following: constructing and maintaining parkways, rights-of-way, easements, esplanades and other public areas, payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions and conditions affecting the Properties to which the maintenance fund applies, payment of all reasonable and necessary expenses in connection with the

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collection and administration of the maintenance charge and assessment, employing policemen and watchmen, caring for vacant Lots and doing other thing or things necessary or desirable in the opinion of the Association to keep the Properties in the subdivision neat and in good order or which is considered of general benefit to the owners or occupants of the Properties, it being understood that the judgement of the Association in the expenditure of said funds shall be final and conclusive so long as such judgement is exercised in good faith.

Section 2. To secure the payment of the maintenance fund, established hereby and to be levied on individual residential Lots, there shall be reserved in each Deed (whether specifically stated therein or not) by which the Declarant shall convey to such Lots, the Vendor's Lien for benefit of the Association, said Lien to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that such lien shall be secondary, subordinate and inferior to all liens, present and future given, granted and created by or at the instance and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the construction of improvements on any such Lot to the extent of any such maintenance fund charge accrued and unpaid prior to foreclosure of any such purchase money lien or construction lien; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, for the aforesaid purpose or purposes, the Association shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage holder by prepaid U. S. registered mail, and shall contain a statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Association shall acknowledge in writing its obligation to give the

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foregoing notice with respect to the particular Lot covered by such first mortgage lien to the holder thereof.

Section 3. The above maintenance charge and assessment will remain effective for the full term (and extended term if applicable) of the within covenants.

#### ARTICLE VII

##### GENERAL PROVISIONS

Section 1. Term. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date these covenants are recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the Lots has been recorded agreeing to change or terminate said covenants in whole or in part. Upon any violation or attempt to violate any of the covenants herein, it shall be lawful for the Association or any other Lot owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for such violations.

Section 2. Severability. Invalidation of any one of these covenants by judgement or other court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

Section 3. FHA/VA Approval. So long as the Declarant, its successors and assigns, are in control of the Mission Bend Homeowners Association, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties; dedication of common area; and amendment of this Declaration of Covenants, Conditions and Restrictions.