

BILL & RETURN TO:
BRAZOS COUNTY ABSTRACT COMPANY
GF# AP

CONDOMINIUM DECLARATION
for
FOX RUN Condominiums
College Station, Texas

HiHo Developers, Ltd. (a Texas Limited Partnership), domiciled in Baton Rouge, Louisiana, hereinafter called "Declarant," is fee simple owner of a tract of land in the county of Brazos of the state of Texas, designated as "Lot 3A" of Block "1" of **Melrose Subdivision** of the city of College Station, being a resubdivision (or replat) of former Lots 1, 2 & 3 of Block "1" of Melrose Subdivision, as created and designated by the official resubdivision plat recorded in Volume 3020 at page 89 of the official land records of Brazos County of the state of Texas. The land has been surveyed as 9.184 acres (400,074 sq. ft.) with direct vehicular access to Luther Street (a public road) as more fully described by a plat of ground survey by John T. Bilnoski, R.P.L.S. No. 4998, dated 7/26/02, and is depicted by the Site Plan under signature of Joseph P. Schultz, P.E., No. 65889, attached to this **CONDOMINIUM DECLARATION** as "**Exhibit A**," made a part hereof. The land is subject to servitudes, easements, covenants, and encumbrances described by Title Insurance Policy No. 1343-33077 issued by Fidelity National Title Insurance Company through its agent University Title Company effective February 12, 2003, pursuant to the Commitment referenced upon the before said plat of ground survey. A copy of this policy is attached as "**Exhibit B**."

On this land, Declarant has constructed five (5) two & one-half story, multi-family, residential structures (labeled as "1, 2, 5, 6 & 7") on the attached Site Plan included as "**Exhibit C**." These five buildings and the forty (40) Units contained therein constitute **Phase I** of the Condominium. Declarant will hereafter construct eleven (11) identical buildings labeled as "3, 4, 8, 9, 10, 11, 12, 13, 14, 15 & 16" on the attached Site Plan, which can contain up to eight Units each, and will constitute **Phase II** of the Condominium. The buildings and other depicted improvements of Phase II can be completed during an unspecified time in the future, but within ten (10) years of July 1, 2003. Designated Units on ground floor are handicapped accessible.

Each building will contain up to eight (8) residential condominium Units (four upper three-bedroom units and four lower two-bedroom units), each having a separate entry door on ground level which opens to common ground area connected by paved walkways to the automobile parking areas and common ground. The buildings will be essentially identical in design and construction and appearance. A swimming pool, paved vehicle-parking areas and driveways and walkways, designated recreation areas, landscaped areas, security fencing and gates complete the development. The Condominium will be enclosed within a perimeter security fence with resident-controlled gated access for vehicles and pedestrians from Luther Street, a public road. A maximum of one hundred and twenty-eight (128) Units may be created in this Condominium. No other land can be included in the condominium and no land can be removed from the condominium.

Declarant desires to establish a Condominium Regime under the Uniform Condominium Act as adopted by the state of Texas, Chapter 28 of *Vernon's Texas Code Ann.* (as amended) and herein called the "Act" to create and regulate the horizontal division of ownership of the described land and improvements (including existing and future Units) into units of space, as condominium Units all of which shall be known as **FOX RUN CONDOMINIUMS**.

THEREFORE, Declarant does hereby establish a plan (herein called the "Condominium Regime") for the (1) **ownership** of the interior area or space contained within each of the Units in each of the free-standing structures , and (2) **common ownership** by the individual Unit owners of the land and all improvements thereon (exclusive of the Units), which includes both Limited Common Elements and General Common Elements, as hereinafter defined in Paragraph 1.1 as the "Common Elements" or "Common Areas."

AND, THEREFORE, Declarant does hereby subject the land and buildings described above and on the attached Exhibit "A" and all improvements now thereon and hereafter constructed , to the provisions of the Act and the Condominium Regime, and does hereby publish and declare that the following terms, covenants, conditions, servitudes and easements, restrictions, uses, limitations and obligations (**in addition to all other prior use-restrictions, servitudes, easements and covenants affecting the land**) shall be deemed to run with the land and shall be an encumbrance upon the land and the created units in favor of Declarant and their successors and all future Unit owners and assigns.

ARTICLE I

1.1 DEFINITION OF TERMS: As used in this declaration, the following terms shall have the following meaning unless the context shall expressly provide otherwise:

(a) **"Common Assessment"** means the charge against the Unit Owner and Unit, representing a pro-rata share of the costs to the Association of maintaining, improving, repairing, replacing, managing and operating the common elements appurtenant to the Units, which are to be paid uniformly and equally by each Unit Owner of the Association, as provided herein. Common Assessments also include charges assessed against each Unit Owner to maintain a reserve or replacement fund and to cover costs incurred by the Association to participate in any condominium suit or litigation or other action by the Association.

(b) **"Common Elements"** means and includes the land and buildings and all other improvements to the land, exclusive of the Units. Common Elements shall consist of the General Common Elements and the Limited Common Elements. No part of the land or a building in the Condominium upon and within which a Unit is located shall be separately owned, as the land and the buildings and other improvements shall constitute part of the "Common Elements" appurtenant to the Units. Each building and improvement shall be owned equally in common by the Owners of all units in proportion to the total number of units. Land designated by the Site Plan as sites for buildings which are not yet completed and ready for occupancy are not subject to use as a common element until Declarant's rights of exclusive use expire after ten years from June 1, 2003. Attic space above lofts is a common element subject to control of the Association.

(c) **"Common Expenses"** means and includes:

(1) All sums lawfully assessed against the Common Elements by the Managing Agent or Board of Directors of the Association of unit owners;

(2) All expenses of Administration and Management, maintenance, operation, repair or replacement of an addition to the Common Elements (including unpaid Special Assessments);

(3) Expenses agreed upon as Common Expenses by the Unit Owners; and

(4) Expenses declared to be Common Expenses by this Declaration or by the By-Laws.

(d) **"Common Surplus"** means the balance of all income, rents, profits and revenues on the Common Elements and facilities remaining after the deduction of the Common Expenses.

(e) **"Completed Unit"** means a completely furnished Unit, including, but not limited to, the installation of all appliances and utilities, rendering it ready for occupancy by an Owner other than the Declarant.

(f) **"Condominium Owners Association"** or "Association" means **FOX RUN CONDOMINIUM ASSOCIATION**, a Texas non-profit corporation which shall govern the administration of the Condominium, the membership of which is composed of the Owners of the Condominium Units. The words "Board" used in this Declaration means Board of Directors of the Association.

(g) **"Condominium Unit"** shall mean an individual Unit of space together with the interest in the Common Elements (General or Limited) appurtenant to such Unit.

(h) **"Conversion Period"** means that period of time during which Declarant is building and selling the Condominium Units, which time period shall extend from the date hereof until such time as the Declarant transfers all of the Condominium Units (including Units built after date of this declaration as herein provided), **but not to exceed ten (10) years from June 1, 2003.**

(i) **"Declaration"** shall mean this Condominium Declaration instrument.

(j) **"General Common Elements"** means a part of the Common Elements and includes:

(1) The 9.184 acres of land described in Exhibit "A" attached hereto as "Lot 3A";

(2) The foundations, bearing walls and columns, roofs, and other common structural elements of each building on the said land;

(3) The yards, flowers beds and gardens on the land, except as otherwise herein provided or stipulated;

(4) Any compartments or installations of central services, such as electric power, lights, gas, cold and hot water, refrigeration, central air conditioning and central heating reservoirs, water tanks and pumps, and the like, which is a component of a building serving more than one unit;

(5) The plumbing, drainage, sewerage, and garbage disposal facilities which serve more than one unit, and, in general, all devices or installations existing for common use; and

(6) All other elements of each Building desirably or rationally of common use or necessary to the existence, upkeep and safety of more than one unit in a building or to the whole Condominium defined by this Declaration.

(k) **"1st Lienholder"** and "First Mortgagee" shall mean the holder of a first-ranked Mortgage Lien on any Unit in the Condominium.

(l) **"Limited Common Elements"** means and includes those Common Elements which are reserved for the exclusive use of an individual Unit's owner or a limited number of individual Units' owners, which may include:

(1) The parking spaces designated as such for the exclusive use of the owner of a particular unit (as shown on attached parking plan), allocated at one space per bedroom;

(2) "Air Handlers", pipes, ducts, electrical wiring and conduits located entirely within a Unit or adjoining Units and serving only such Unit or Units, and such portions of the perimeter walls, floors, ceilings, doors, vestibules, windows, entryways, and all associated fixtures and structures therein, as lie outside the Unit boundaries.

(m) **"Majority of Unit Owners"** means, at the least, fifty-one (51%) percent of those Owners entitled to vote.

(n) **"Occupant"** means a person or persons physically occupying or inhabiting a Unit, regardless of whether said person is a Unit Owner.

(o) **"Owner"** means a natural or juridical person or persons (including a personal representative or fiduciary) who hold ownership of a unit by publicly recorded act of transfer. When more than one person jointly own a single Unit, those persons shall be deemed the "owner" and there is only one vote for that Unit; and at least fifty-one (51%) percent of the joint owners must concur to cast the vote for that Unit ownership.

(p) **"Plans"** mean and include any drawings or diagrams of the condominium land locating thereon the improvements and the floor and elevation plans of the Units and any other drawing or diagrammatic plan depicting the improvements, same being herein filed consisting of several sheets, labeled Exhibits "A, C & D" and incorporated herein.

(q) **"Premises", "Project", or "Property"** all mean the Condominium and include the land, building(s), and all improvements and structures thereon and all rights, servitudes and easements and appurtenances belonging thereto, which are now or hereafter included under the Declaration.

(r) **"Special Assessments."** In addition to the Common Assessments authorized

above, the Association may levy, in any assessment year, a special assessment, against the units of any building applicable to that year only, for the purpose of defraying, in whole or in part:

(1) The cost of any construction, reconstruction, repair or replacement of a capital improvement upon a common area, including fixtures and personal property related thereto (except for the construction of Units by Declarant or its assigns);

(2) The expense of any other contingencies or unbudgeted costs; provided that any such assessment shall have the assent of two-thirds (2/3) of the owners eligible to vote at a meeting duly called for this purpose. Any amounts assessed pursuant hereto shall be assessed to Owners *pro-rata*. The Association, after due notice and hearing, shall also have the authority to establish and fix a special assessment upon any Unit to secure the liability of the Owner of such Unit to the Association for any breach by such Owner of any of the provisions of this Declaration, if the breach require an expenditure by the Association for repair or remedy. Special assessments may be charged or collected on a monthly basis. The above mentioned liability of any Owner is to be established as set forth in this Declaration.

(s) "Unit" shall mean the elements of an individual Condominium Unit which are not owned in common with the Owners of the other Units in the Condominium as shown on the plans, which are exhibits attached hereto; and each Unit shall include the air space assigned thereto. The boundaries of each such Unit space shall be and are the interior surfaces of the perimeter wall, floors, ceilings, window frames, doors and door frames and trim and the space includes both the portions of the Building so described and the air space so encompassed, excepting the Common Elements. In Interpreting acts of transfers, mortgage, and other instruments, the existing physical boundaries of the Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries regardless of settling, rising or lateral movement of the Building and regardless of variances between boundaries shown on the Plat and those of the Building. The individual ownership of each Unit space herein defined shall further include the interior construction, partitions, appliances, fixtures and improvements which are intended to exclusively serve such Unit space, such as interior room walls, floor coverings, or finish, closets, cabinets, shelving, individual lighting and electrical fixtures and other separate items or chattels belonging exclusively to such Unit, any of which may be removed, replaced, disposed of or otherwise treated without affecting any other Unit space or ownership or the use or employment thereof.

ARTICLE II

CONDOMINIUM UNIT DESIGNATIONS AND DESCRIPTIONS

2.1 SURVEY PLAT and SITE PLAN and UNIT PLANS

(a). A SITE PLAN certified by a licensed engineer is attached as "EXHIBIT A" and sets forth the location and boundaries of the land, and depicts the location of the Buildings and all other improvements constructed (or permitted as future construction) with respect to the perimeter boundary of the land.

(b) the title insurance policy which reflects the easements and other encumbrances that affect the Condominium is attached as "EXHIBIT B"

(c) A SITE PLAN which depicts the entire Condominium with identification **Numbers** of the Buildings and the **number designations** of the Units within those buildings and the location of the parking spaces designated for exclusive use of each Unit is attached to this Declaration as "EXHIBIT C."

(d) BUILDING PLANS (typical) certified by a licensed architect depict the linear measurements of each building and each Unit, expressing its approximate square footage as well as the interior con-figuration of each Unit, both horizontal and vertical are attached to this Declaration as "EXHIBIT D."

(e) The location of all sites eligible for future construction of Units by Declarant are shown as buildings 3, 4, 8, 9, 10, 11, 12, 13, 14, 15 & 16 on the attached site plan.

2.2 DESIGNATION OF UNITS. The Condominium consists of 9.184 acres (400,074 sq. ft.) of land on which are (or will be) up to sixteen (16)) two and one-half story, multi-family residential separate free-standing buildings (designated as Buildings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 16 on the attached site plan). Each building will contain eight (8) residential condominium Units for a total of one hundred and twenty-eight (128) separate Units. Each Unit is identified by the number of the building and the number of the Unit within a building all as shown on the attached plans. For example, Unit 1 of Building 1 is designated as Unit 101; Unit 8 of Building 10 is designated as Unit 1008 etc.

Existing (& Future) Units: The eight Units within each building are designated by a number composed of the building number and the Unit number, such as "101" sequentially through "108" for the Units in Building "1" as shown on the Site Plan in "EXHIBIT C" attached to this Declaration. The four Units numbered "_02, _03, _06, _07" are at ground level. The other four units "_01, _04, _05, _08" are situated on the second story above the ground-level units (and have a third-level loft). All Units have a ground level entrance. Certain ground-level Units have an interior configuration designed to accommodate wheel chair movement within the Unit (see Sheet A-3 of building plans in "EXHIBIT D") and have accompanying designated "handicapped" parking spaces assigned to them, namely those Units which are designated as HC in Buildings 2, 3, 4, 7, 9, 11 and 12.

2.3 LIMITED COMMON ELEMENTS. Portions of the Common Elements are set aside and reserved for the exclusive use of the individual Unit owners, such areas being Limited Common Elements. The Limited Common Elements reserved for the exclusive use of the individual Unit-owners are the automobile parking spaces assigned to each Unit, and the access steps and entry doors to the ground-level doorways of each Unit, which are shown on the Plans. The designated parking spaces are allocated on the basis of 1 space per bedroom and assigned by the Declarant to the respective Units, as indicated on the Plans. Such Limited Common Elements shall be used in connection with the particular Unit, to the exclusion of the use thereof by the other Owners, except by invitation. The reserved parking spaces may be used by other Unit owners and

their invitees for temporary parking purposes only when the Unit Owner for whom the spaces are reserved grants permission for another to use that space, subject to the right of the owner of the Unit to which they are appurtenant to resume actual use for parking purposes at any time.

2.4 REGULATION OF COMMON AREAS. Portions of the Common Areas may be intended as recreation areas, and may be improved with green areas and other facilities. Reasonable rules and regulations governing the use of such facilities by Owners and by their guests and invitees shall be promulgated by the Declarant or the Association when the Declarant has relinquished control to the Board of Directors of the Association after the same has been elected. Such regulation shall be permanently posted at the office and/or elsewhere in said recreational areas, and all Owners shall be furnished with a copy thereof. Each Owner shall be required to strictly comply with said Rules and Regulations, and shall be responsible to the Association for the compliance therewith by the members of their respective families, relatives, guests or invitees, both minor and adult.

2.5 INSEPARABLE UNITS. Each Unit and its corresponding pro-rata interest in the Common Elements shall be inseparable and may not be conveyed, leased or encumbered separately, and shall at all times remain indivisible in kind.

2.6 DESCRIPTIONS. Every written notarial or private act effecting or granting a transfer, lease, mortgage or other real or quasi-real right may legally describe a Condominium Unit by its official Unit as shown on the Plans, followed by the words FOX RUN CONDOMINIUMS and by reference to this recorded Declaration and Map, for example: Unit 101 of FOX RUN CONDOMINIUMS as described by Declaration recorded as _____ in the official land records of Brazos County . Such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the Common Elements.

2.7 ENCROACHMENTS. If any portion of the Common Elements encroach upon a Unit or Units, a valid servitude and easement for the encroachment and for the maintenance of same shall automatically exist for so long as the encroachment exist. A valid servitude and easement also exists upon that portion of the Common Elements and of the Limited Common Elements occupied by any part of an Owner's Unit as constructed or maintained by Declarant which is not contained within the physical boundaries of such Unit, including, but not limited to, space occupied by heating and air conditioning equipment, utility lines and similar equipment which serves only one (1) Unit. For ownership or other purposes, such encroachments and servitudes and easements shall not be considered or determined to be encumbrances either on the Common Elements or the individual Units.

2.8 GOVERNMENTAL ASSESSMENT. Declarant shall give written notice to the Tax Assessor's Office of the creation of Condominium Ownership of this Property, as is provided by law, so that each Unit and its percentage or fraction of undivided interest in the Common Elements shall be deemed a separate parcel and subject to separate assessment and taxation to the extent allowed.

2.9 USE AND OCCUPANCY RESTRICTIONS.

(a) Subject to the provisions of this Declaration and By-Laws of the Association, no part of the Property may be used for purposes other than single-family residential housing and the related common purposes for which the Property was designed. Each Unit or any two (2) or more adjoining Units used together shall be used for residential purposes or such other uses permitted by this Declaration, and for no other purposes. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from:

(1) Maintaining his personal professional library;

(2) Keeping his personal business or professional records or accounts;

(3) Handling his personal business or professional telephone calls or correspondence, which uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions.

(b) With written **consent of the Board of Directors of the Association**, that part of the Common Elements separating and located between and exclusively serving two (2) or more adjacent Units used together (including, without limitation, portions of any walls) may be altered to afford ingress to and egress from such Units and to afford privacy to the Occupants of such Units when using such Common Elements, and that part of the Common Elements so altered may be used by the Unit Owner or Owners of such Units as a licensee pursuant to a license agreement with the Association, provided:

(1) The expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alterations;

(2) Such Unit Owner or Owners shall pay in full the expense of restoring such Common Elements to their condition prior to such alteration in the event such Units shall cease to be used together, as aforesaid; and

(3) Such alteration shall not interfere with use and enjoyment of the Common Elements (other than the aforesaid part of the Common Elements separating such adjacent Units), including, without limitation, reasonable access and ingress to and egress from the other Units in the hallway or stairway affected by such alteration.

(c) The Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, family members, customers, invitees and licensees for access, ingress to and egress from the respective Units and for other purposes incidental to use of the Units.

(d) The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and may be subject to lease, concession or easement, presently in existence or entered into by the Board at some future time.

(e) Without limiting the generality of the foregoing provisions of this Paragraph 2.9, use of the Property by the Unit Owners shall be subject to the following restrictions:

(1) Nothing shall be stored in the Common Elements without prior consent of the Board, except in storage areas or as otherwise herein expressly provided;

(2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or the Common Elements which will result in the cancellation of insurance on any Unit, or any part of the Common Elements, or which will be in violation of any law;

(3) No waste shall be caused to Common Elements;

(4) Subject to Declarant's rights under Paragraph 2.9(e)(14) of this Declaration, no message or sign of any kind shall be displayed to the public view on or from any Unit or Common Elements without prior written consent of the Association.

(5) No noxious or offensive activity shall be done within the Common Elements, nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any other Unit Owner. No loud noises or noxious odors shall be permitted on the Property, and the Board shall have the right to determine in accordance with the By-Laws if any such noise, odor or activity constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may reasonably interfere with television or radio reception of any Unit Owner in the Property shall be located or used on any portion of the Property or exposed to the view of other Unit Owners without the prior written approval of the Association;

(6) Except as expressly provided herein above, nothing shall be altered or constructed in or removed from the Common Elements, except by the written consent of the Association;

(7) No structures of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be permitted on the Property at any time temporarily or permanently, except with the prior written consent of the Association; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the building(s) or any portion thereof;

(8) No rubbish, trash or garbage or other waste material shall be kept or permitted upon any Unit or the Common Elements, except insanitary containers located in appropriate areas designated by the Board; and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or its Occupants. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles designated by the Association which

are designed for such use, and only in such a manner that no fire hazard, noxious smoke or nuisance is created. No clothing or household fabrics shall be hung, dried or aired in such a way in the Property as to be visible to other owners or tenants in the Property, and no lumber, waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property, except within an enclosed structure or if appropriately screened from view;

(9) No Unit Owner shall park, store or keep any vehicle, except wholly within the Parking Spaces designated therefor, and any inoperable vehicle shall not be stored in a Parking Space or within the Common Elements in general. No Unit Owner shall park, store or keep within the Condominium any large commercial-type vehicle (dump truck, cement mixer truck, oil or gas truck, delivery truck and any other vehicle equipment, mobile or otherwise, deemed to be a nuisance by the Board), or other similar vehicle deemed to be a nuisance by the Board. No Unit Owner shall conduct major repairs or major restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Common Elements. Parking Spaces shall only be used for parking of private motor vehicles used for transportation; the parking of large recreational vehicles or motor homes (RV's) or other over-sized vehicles on anything other than a temporary transient basis, is not permitted, except by consent of the Association (or Declarant during the conversion period).

(10) Except within individual Units, no planting, transplanting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the grounds, except as approved by the Board;

(11) Motorcycles, motorbikes, motor scooters or other similar vehicles, shall not be operated within the Property except for the purpose of transportation directly from a Parking Space to a point outside the Property, or from a point outside the Property directly to a Parking Space. All such vehicles must be parked within a designated parking space at all time (unless taken to the interior of a unit).

(12) No animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept in any Unit or the Common Elements. Dogs, cats, fish, birds and other household pets may be kept in Units subject to rules and regulations adopted by the Board, provided they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, the Association may determine a reasonable number in any instance to be more or less, and the Association, acting through the Board, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Unit Owner. Animals belonging to Unit Owners, Occupants or their licenses, tenants or invitees within the Property must be kept either within an enclosure (not to exceed two (2) hours) or on a leash being held by a person capable of controlling the animal. The enclosure (purely temporary and portable) must be so maintained that the animal cannot escape therefrom. Should any animal belonging to a Unit Owner be found unattended out of the enclosure and not being held on a leash by a person capable of controlling the animal, such animal may be removed by Declarant or a person designated by Declarant for so long as it owns any interest in the Property, and subsequent thereto by the Managing Agent of the Association, to an impound under the jurisdiction of the political subdivision within which the Property is situated and subject to the laws and rules governing said

"pound," or to a comparable animal shelter. Further-more, any Unit Owners, their families, guests, tenants and invitees, are liable to an injunction and to pay damages for any unreasonable noise or injury to person or property caused by any animals brought or kept upon the Property by a Unit Owner or members of his family, his tenants or his guests; and it shall be the absolute duty and responsibility of each such Unit Owner to clean and restore the Property if such animals have soiled or dug any portion thereof.

(13) **No Unit Owner shall be permitted to lease his Unit for hotel or transient purposes. No Unit Owner shall be permitted to lease less than the entire Unit.** Every lease of a Unit or part thereof shall be in writing, and a copy of such lease, as and when executed, shall be bound by and subject to all of the obligations, under the Declaration and By-Laws, of the Unit Owner making such lease and failure to do so shall be a default thereunder. The Unit Owner making such lease shall not be relieved thereby from any of said obligations. All leasing activities of Owners must be conducted by or through the leasing agent selected by the Board of Directors of the Association; and follow the guidelines established by the Board.

(14) It is understood that Declarant may maintain a sales office in one or more of the Units until all of the Units have been sold. The Declarant may maintain signs on the Property advertising the availability for sale of the Units during the conversion period.

ARTICLE III

3.1 OWNERSHIP. A Condominium Unit may be owned by one or more of any natural or juridical persons, and in any property relationship recognized under the laws of the State.

3.2 PARTITION. The Common Elements (both General and Limited) shall be owned in common by the Owners of the units of each building and lot and shall remain undivided, and no Owner shall bring any action for partition or division of the Common Elements other than is specifically provided hereinafter in Paragraph 6.2, "Judicial Partition." Nothing contained herein shall be construed as a limitation of the right of partition of a Condominium Unit between the Owners thereof, but such partition shall not affect any other Condominium Unit.

3.3 EXCLUSIVENESS OF OWNERSHIP. Each Owner shall be entitled to exclusive use and possession of his Unit and parking spaces. Each Owner may use the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

3.4 ONE FAMILY RESIDENTIAL DWELLING. Each Condominium Unit shall be occupied and used or leased by the Owner only as a residential dwelling for his or her family and social guests. In no event shall occupancy of a Unit exceed the respective governing body's standards of occupancy or otherwise present a nuisance to neighboring Unit owners. The Board of the Association shall have the power to limit any occupancy which is deemed abusive, obnoxious or incompatible with the concept of single family dwelling units.

3.5 MECHANIC'S AND MATERIAL MAN'S LIENS. No labor performed or materials furnished and incorporated in a Unit, notwithstanding the consent or request of the Owner, his agent, contractor or subcontractor, shall be the basis for filing of a lien against any Common Elements. Each Owner shall indemnify each other Owner and hold each of the other Owners harmless from any lien asserted against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request. Labor performed, or material furnished, at the request of the Association shall not be the basis for a lien on all Units or Common Elements as a whole, but only upon the particular building and lot or units, as may be applicable vis-a-vis the work done. If, however, the labor is performed or materials furnished by the authorization of the Association, the labor or materials shall be deemed to be performed or furnished with the express consent of the Unit Owners and shall be the basis for a claim of lien against each Condominium Unit receiving the benefit of the work or material. The lien claim pertinent to each unit shall be limited in amount to the total charge multiplied by the percentage or proportionate obligation of the Owner for the particular Common Expenses.

3.6 RIGHT OF ENTRY. The Association shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any time for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit.

3.7 OWNER MAINTENANCE. An Owner shall maintain and keep in repair the interior of his own Unit, including the fixtures thereof. All fixtures and equipment installed with the Unit, commencing at a point where the utility lines, pipes, wires, conduits, or systems (which for brevity are hereafter referred to as "utilities") enter the Unit, shall be maintained and kept in repair by the Owner thereof; and an Owner shall be obligated to promptly arrange and pay for the repair/replacement of any broken exterior door or cracked glass in exterior windows and doors of a Unit. All exterior repairs shall be performed or supervised by the Association; but the cost of repairs to windows and doors of a Unit shall be charged to the Unit owner (or his insurer).

3.8 ALTERATION. An Owner shall do no act nor any work that will impair the structural soundness and integrity of the Building or impair any servitudes and easements. For purposes hereof, the placing of a waterbed anywhere on the Premises may be deemed to be such an act as would impair the structural soundness and integrity of the Building. No Owner shall in any way alter, notify, add to or otherwise perform any work whatever upon any of the Common Elements, Limited or General, without the prior written consent and approval in writing by the Declarant or Board of Directors. Any such alteration or modification must be in harmony with the external design and location of the surrounding structures and topography, and shall not be considered until submission to the Association of complete plans and specifications showing the nature, kind, shape and size, materials, color and location for all proposed work. During the Conversion Period, Declarant shall have the sole right to approve or reject any plans and specifications submitted for consideration by an Owner.

3.9 RESTRICTION OF OWNERSHIP. As a restriction of the ownership

provisions set forth in Paragraph 1 (s) "Unit," an Owner shall not be deemed to own the unfinished surfaces of the perimeter walls, floors, ceilings, and roofs surrounding his Unit, nor shall such Owner be deemed to own the utilities running through his Unit, which are utilized for, or serve, more than one (1) Unit, except in undivided ownership with the other Owners. An Owner shall be deemed to own and shall maintain the inner, finished surfaces of the perimeter and interior walls, floors, and ceilings, doors, windows and other such elements consisting of paint, wallpaper and other such finishing material.

3.10 LIABILITY FOR NEGLIGENT ACTS. In the event the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests or invitees, and is not covered or paid for by insurance either on such Unit or the Common Elements, the cost of such maintenance or repair shall be added to and become part of the Assessment to which such Unit is subject, pursuant to Article IV hereof.

3.11 SUBJECT TO DECLARATION AND BY-LAWS. Each Owner shall comply strictly with the provisions of this Declaration, the Bylaws and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief, or both, maintainable by the Association on behalf of the Owners or, in proper case, by an aggrieved Owner.

ARTICLE IV

MANAGEMENT AND ADMINISTRATION

4.1 BY-LAWS. The administration of this Condominium Property shall be governed by the FOX RUN CONDOMINIUM ASSOCIATION, a non-profit corporation, referred to herein as the "Association," under its By-Laws, a copy of which along with the Articles of Incorporation are annexed hereto as Exhibit "E". An Owner of a Condominium Unit, upon becoming an Owner, shall be a member of the Association and shall remain a member for the period of his ownership. The Association shall be managed by a Board of Directors, duly appointed or elected, pursuant to the terms and conditions of the Articles and By-Laws. The Association may enter into a Management Agreement upon the terms and conditions established in the By-Laws consistent with this Declaration. The Association may contract for the monitoring of individual Unit security systems for a term not to exceed ten years in order to obtain a cost-effective method of installation of such systems in each Unit during the construction phase.

4.2 DECLARANT CONTROL. Paragraph 4.1 notwithstanding, and for the benefit and protection of the Unit Owners and any First Mortgagees of Record, for the sole purpose of insuring a complete and orderly sellout of the Condominium, **the Declarant will have and retain control of the Board and the Association** for a maximum period of thirty (30) days after the date by which seventy-five (75%) per cent of the units (including those units designated for future construction on land) have been transferred to other owners by Declarant ("control period"),

or until June 1, 2013, whichever occur sooner. It is expressly understood that the Declarant cannot use said control for any advantage over the other Unit Owners by way of retention of any residual rights or interests in the Association. Nor will any management agreement with a term longer than one (1) year after the "control period" or the "conversion period," whichever first expire, be valid without the approval of the Association membership or Board of Directors.

4.3 MANAGING AGENT. During the period of administration of this Condominium Regime by Declarant (the "control period"), the Declarant may employ or designate a Manager or Managing Agent, who shall have all of the rights, powers, authority, functions and duties as may be specified in the contract of employment or as may be delegated by Declarant to him. The Declarant may pay such temporary Manager or Managing Agent such compensation as it may deem reasonable for the services to be rendered, which compensation shall constitute a part of the common expenses of this Condominium Regime and shall be paid out of the Association budget.

4.4 SPECIFIC POWER TO RESTRICT USE AND ENJOYMENT. Every Owner and the Declarant shall have a beneficial interest of use and enjoyment in the Common Elements subject to the following limitations, restrictions and provisions:

(a) The right of the Association to publish rules and regulations governing use of the Common Areas and the improvements and facilities located thereon, and to establish and enforce penalties for infractions thereof;

(b) The right of the Association to charge reasonable fees for the use of facilities within the Common Area, if such facilities are not intended for common use by all members equally;

(c) The right of the Association to exercise any powers allowed under the "Act" and under the non-profit incorporation laws of the state of Texas;

(d) The right and duty of the Association to suspend the voting rights of, and the right to use recreational facilities which are general common elements by, an Owner for any period during which any assessment against the Owner's Condominium Unit is delinquent and remains unpaid.

(e) The right of Declarant during the Conversion Period, or the Association after the Conversion Period: to dedicate servitudes and easements or encumber any part of the Common Area with usual and customary servitudes and easements or other real obligations to any political subdivision or public agency, authority or publicly regulated utility for the purposes of, and subject to the conditions, of such subdivision, agency, authority or utility;

(f) The right of the Association to adopt, implement and maintain a private security system for the Premises consistent with applicable laws;

(g) The right of the Association to establish rules and regulations governing

traffic within Common Areas, and to establish sanctions for any violation or violations of such rules and regulations;

(h) The right of the Association to regulate noise within the premises, including, without limitation, the right of the Association to require mufflers on engines and to prohibit the use of devices producing excessive noise;

(i) The right of the Association to control the visual attractiveness of the Property, including, without limitation, the right to require Owners eliminate objects which are visible from the Common Area and which, in the Association's judgment, detract from the visual attractiveness of the Property.

4.5 MEMBERSHIP, VOTING, QUORUM, PROXIES.

(a) Membership. Any person on becoming an Owner of a Condominium Unit shall automatically become a Member of the Association. Such Membership shall terminate without any formal Association action whenever such person ceased to own a Condominium Unit, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with the Regime during the period of such Ownership and Membership of the Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against the former Owner and Member arising out of or in any way connected with such Ownership and Membership and the covenants and obligations incident thereto. No certificates of stock need be issued by the Association, but the Board of Directors may, if it so elects, issue a membership card to the Owner(s) of a Condominium Unit. Such membership card shall be canceled by the Secretary whenever Ownership of the Condominium Unit designated thereon shall terminate.

(b) Voting. Unit Ownership shall entitle the Owner(s) to cast one (1) vote per Unit in the affairs of the Association. Voting shall not be split among co-owners of a Unit. There are as many votes as there are existing Units ready for occupancy from time to time.

(c) Quorum. The Majority of Unit Owners as defined in Article I shall constitute a quorum of the Association membership.

(d) Proxies. Votes may be cast in person or by written proxy. Proxies shall be filed with the Secretary before or at the appointed time of each meeting.

4.6 INSURANCE.

(a) Pursuant to the "Act" the Association shall maintain at all times insurance of the type provided hereinafter, including such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to any Condominium Building(s), fixtures, equipment and personal property, similar in construction, design and use, issued by responsible insurance companies authorized to do business in the state of Texas. The insurance shall be carried in blanket policy form naming the Association and all Mortgagees as the

insured. In addition, each policy or policies shall identify the interest of each Condominium Unit Owner and shall provide for a standard, non-contributory mortgage clause in favor of each First Mortgagee. Further, the policy shall insure against loss or damage by fire, vandalism, malicious mischief or such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Common Elements and the Units, and against such other hazards and for such amounts as the Board may deem advisable. Each Owner irrevocably designates the Owners' Association, as Attorney-In-Fact, to administer and distribute such proceeds as is elsewhere provided in this Declaration. Such insurance policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days from the date when prior written notice is sent by U.S. Mail or hand delivery to each Unit Owner and each First Mortgagee. The Board of Directors shall, upon request of any First Mortgagee, furnish a certified copy of each blanket policy and a separate certificate identifying the interest of the Mortgagor.

(b) The Association shall keep a comprehensive policy or policies of public liability insurance covering the Common Elements of the Condominium and such policy or policies shall include a "Severability of Interest Endorsement" or equivalent coverage which will preclude the insurer from denying the claim of a Unit Owner. Such policy or policies shall be in amounts of not less than One Hundred Thousand and No/100 (\$100,000.00) Dollars per person, Three Hundred Thousand and No/100 (\$300,000.00) Dollars per accident and Fifty Thousand and No/100 (\$50,000.00) Dollars property damage plus an umbrella policy for not less than One Million and No/100 (\$1,000,000.00) Dollars for all claims for personal injury, including death, and/or property damage arising out of a single occurrence; and the policy shall include coverage for water damage liability, liability for non-owned and hired automobiles, liability for property of others and such other coverage as is customarily deemed necessary with respect to policies similar in nature.

(c) The Association may keep a policy or policies of (i) Liability insurance insuring the Board of Directors, Officers, and employees of the Association against any claims, losses, liabilities, damages or causes of action arising out of, or in connection with, or resulting from any act done or omission to act by any such person or entities, (ii) workmen's compensation as required under the laws of the state of Texas, and (iii) such other insurance as deemed reasonable and necessary in order to protect the Condominium, the Unit Owners and the Association.

(d) The Association may obtain insurance against losses to the Units, including all fixtures, installations or additions thereto contained within the finished interior surfaces of the perimeter wall, floors and ceilings of such Unit, as initially installed or replacements thereof. The Association shall not be responsible for procurement or maintenance of any insurance covering the liability of, or injury suffered by the non-attached contents of, any Unit Owner not caused by or connected with the Association's operation or maintenance of the Condominium. Each Unit Owner may obtain additional insurance at his own expense for his own benefit. Insurance coverage on the furnishings and other items of personal property belonging to a Unit Owner and casualty and public liability insurance coverage within each Unit are specifically made the responsibility of each Unit Owner, and each Unit Owner must furnish a copy of his insurance policy to the Association.

(e) Any insurance obtained by the Association or a Unit Owner shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against the Unit Owners, Association or their respective servants, agents or guests.

ARTICLE V

MAINTENANCE ASSESSMENTS

5.1 ASSESSMENTS FOR COMMON EXPENSES. All Owners shall be obligated to pay the assessments imposed by this Declaration or the Association from time to time to meet the Common Expenses.

5.2 PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare and recreation of the residents in the Property, and in particular for the improvement, maintenance and preservation of the Property, the services and the facilities devoted to said purposes that are related to the use and enjoyment of both the Common Elements and the Units situated upon the Property. Such uses may include, but are not limited to, the cost to the Association of the following: all insurance, repair, replacement and maintenance of the Common Elements; fire, extended coverage, vandalism, malicious mischief and liability insurance for the Condominium Units; management, costs, taxes, legal and accounting fees as may from time to time be authorized by the Association; construction of other facilities; maintenance of servitudes and easements upon, constituting a part of, appurtenant to or for the benefit of, the Property; mowing grass, caring for the grounds and landscaping; caring for the equipment; roofs and exterior surfaces of the building(s); fresh water supply and sewerage disposal and garbage pickup; pest control; outdoor lighting not part of a particular unit lighting scheme; security service for the Property; discharge of any liens on the Common Elements; and other charges required by this Condominium Declaration, or other charges that the Association is authorized to incur. In addition, the Association shall establish a reserve for repair, maintenance and other charges as specified herein.

5.3 WATER, SEWERAGE, ELECTRICITY, CABLE-TV, TELEPHONE:

(a) Water, sewage, trash disposal services are presently furnished to each unit by municipal government regulated entities, serving all residents of the FOX RUN CONDOMINIUMS. Those charges will be paid by the Association.

(b) Electricity is supplied to each unit by the city of College Station . This utility service is individually metered and charged to each Unit separately by the supplier. The Unit owner is individually liable for any such charges and service.

(c) Telephone service is available to each Unit primarily by Verizon. This utility service is individually metered and charged to each Unit separately by the supplier. The Unit owner is individually liable for any such charges and service. The rate structure is regulated by the Texas or County Public Service Commission and/or the F.C.C.

(d) Cable television service is provided by Cox Communication available to each Unit. This utility service is individually charged to each Unit separately by the supplier. The Unit owner is individually liable for any such charges and service. The rate structure is regulated by the Texas or County Public Service Commission and/or the F.C.C.

5.4 DETERMINATION OF ASSESSMENTS. Notwithstanding Paragraph 5.5 hereof, the assessments shall be determined by the Association and its Board of Directors (or the Declarant during the conversion period) based upon the cash requirements necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements. This determination may include, among other items, taxes, governmental assessments, landscaping and grounds care, Common Area lighting, repairs, and renovations, garbage collections, wages, water service, sewerage disposal, legal and accounting fees, management costs and fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, expenses incurred in the operation and maintenance of recreation and administrative facilities, payment of any deficit remaining from a previous period and the creation of a reserve contingency fund. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or a release of the Owners from obligations to pay.

5.5 INITIAL ASSESSMENT/MAXIMUM MONTHLY ASSESSMENT.

(a) The original per-unit, per month assessment beginning on August 1, 2003, (or date of earlier occupancy) until July 31, 2004 shall be One Hundred and Fifty (\$150.00) Dollars per month. Failure to pay by the tenth (10th) day of each month shall require the imposition and assessment of a late charge of Twenty-five (\$25.00) Dollars, per month or portion of a month. If any assessment is not paid within thirty (30) days and is placed with an attorney at law or a collection agency for collection, the Unit Owner will owe collection fees of the greater of \$75 or 50% of the amount due, in addition to the late charges. If a lawsuit is filed for the collection of any unpaid assessments, the Unit Owner will owe collection fees of the greater of \$250 or 50% of the amount due, in addition to the late fees.

(b) From and after August 1, 2004, the Association may set the Monthly Assessment for the next succeeding twelve (12) month period at an amount which shall not exceed one hundred and twenty (120%) percent of the Monthly Assessment allowed for the proceeding month. If the Board (or Declarant) determine that a greater increase of the Monthly Assessment is required to adequately perform the duties and responsibilities of the Association and pay all expenses thereof, then the Board (or Declarant) may call a special meeting of the Owners. By the assent of a majority vote of the quorum of Owners, present at such meeting, the Monthly Assessment may be set at whatever level such Owners approve. The new assessment shall become the basis for future annual increases, using the one hundred twenty (120%) percent formula, as above outlined.

(c) The Board of Directors shall have authority to lower the Monthly Assessment, if feasible.

5.6 SPECIAL ASSESSMENTS FOR IMPROVEMENTS. In addition to the monthly assessments authorized above, the Association may levy in any calendar year a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such Assessment shall be approved by a two thirds (2/3) vote of the quorum of Owners voting in person or by proxy at a meeting duly called for this purpose. The Declarant will be treated as all other Unit Owners for purposes of Special Assessments.

5.7 COMMENCEMENT OF ASSESSMENTS. All assessments shall be due monthly in advance on or before the first (1st) day of each month. **Contribution for monthly assessments shall be prorated,** if the Ownership of a Condominium Unit commences on a day other than the first (1st) day of a month. The Board shall fix the amount of the Monthly Assessments for the next year at least thirty (30) days prior to August 1st of each year; provided, however, that the Board shall have a right to adjust the Monthly Assessments, as long as any such adjustment does not exceed the maximum permitted hereunder, with thirty (30) days' written notice given to each Owner. Written notice of the Monthly Assessment adjustment shall be sent to every Owner subject thereto. The due date shall be established by the Board, and, unless otherwise provided or unless otherwise agreed by the Association, the Board shall collect the assessments monthly in accordance with this Article 5. hereof. New Units shall be assessable upon completion by Declarant and certification with an occupancy permit by the County authorities.

5.8 NO EXCEPTION. No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the General or Limited Common Elements or by abandonment of his Unit.

5.9 LIEN FOR ASSESSMENTS. All sums assessed to a Unit for its share of Common Expenses chargeable to the respective Condominium Unit, including interest thereon at the legal rate, and reasonable attorney fees shall constitute a lien on such Unit in accordance with law.

5.10 DISCONNECT FROM WATER SERVICE. In addition to all other remedies available to the Declarant and the Association, when a monthly assessment or any special assessment is more than thirty (30) days late, the Association may interrupt or disconnect the water supply service to the defaulting Unit, after giving five (5) days advance written notice to the occupants of the Unit (if any). The Association is specifically given the right and power to control the water supply within the common areas and at every point of entry to each Unit.

5.11 DELINQUENCY MEANS INELIGIBILITY TO VOTE. An Owner delinquent in paying any assessment is ineligible to vote at any meeting of Owners, and is disqualified from exercising any office in the Association, until the delinquent assessment is fully paid.

ARTICLE VI

DESTRUCTION, OBSOLESCENCE or CONDEMNATION OF IMPROVEMENTS

6.1 APPOINTMENT OF ASSOCIATION AS ATTORNEY IN FACT. This Declaration hereby makes mandatory the irrevocable appointment of an Attorney-In-Fact to deal with the Property upon its destruction, obsolescence or condemnation. Ownership of any Condominium Unit is declared to be, and is expressly made, subject to the terms and conditions of this Declaration and the attached By-laws, as amended from time to time, and acceptance by any Grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Attorney-In-Fact herein provided. **Each Owner Irrevocably appoints the DECLARANT (during the conversion period) and the Association (after the conversion period) as owner's true and lawful Attorney in their name, place and stead, for the purpose of dealing with the Property upon its destruction, obsolescence or condemnation, as hereinafter provided.** As Attorney-In-Fact, the Declarant or Association, by its authorized Officers, shall have full and complete authorization, right and power to make, execute and deliver any act for a contract of construction, repair or sale or any other action with respect to the interest of a Condominium Unit Owner which is necessary and appropriate to exercise the power herein granted.

6.2 REPAIR AND RECONSTRUCTION. Repair and reconstruction of the improvement(s), as used in the succeeding subparagraphs, means restoring the improvement(s) to substantially the same condition in existence prior to the injury, with each Unit and Common Element having the same vertical and horizontal boundaries as before. In the event of injury or destruction caused by natural force or disaster, the proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacements (unless all of the Owners and all of the First Mortgagees agree not to rebuild) in accordance with the provisions set forth hereinafter:

(a) If **sufficient** to reconstruct the improvement(s), the insurance proceeds, shall be applied by the Association, as Attorney-In-Fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed.

(b) If the insurance proceeds are **insufficient** to repair and reconstruct the improvement(s), **and** if such injury is **not more** than sixty-six and two thirds (66-2/3%) percent of the building(s), not including land, such injury or destruction shall be promptly repaired and reconstructed by the Association, as Attorney-In-Fact, using the proceeds of the insurance and the proceeds of an assessment to be made against the Owners and their Condominium Units. Such deficiency assessment shall be a special assessment made pro-rata according to each Owner's proportions interest in and to the Common Elements requiring repair or replacement and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the building(s) using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Article V hereof. In addition thereto, the Association, as Attorney-In-Fact of the owner(s), shall have the absolute right and power to sell the

Condominium Unit of an Owner refusing or failing to pay such deficiency or the assessment within the time provided. If not so paid, the Association shall record a written notice in the conveyance records of the County advising that the Condominium Unit of the delinquent Owner shall be sold by the Association at private sale at fair market value. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as Attorney-In-Fact, in the following order:

- (1) For payment of taxes and special assessments liens in favor of any assessing entity;
- (2) For payment of the lien of any First Mortgage;
- (3) For payment of unpaid Common Expenses;
- (4) For payment of junior liens and encumbrances in order and extent of their priority;
- (5) The balance remaining if any, shall be paid to the Condominium Unit Owner.

(c) If the insurance proceeds are **insufficient** to repair and reconstruct the improvement(s), **and if more** than sixty six and two thirds (**66-2/3%**) percent of the Building, not including land, are destroyed or injured, **and if** the Owners representing one hundred (**100%**) percent of the injured or destroyed Building(s), do **not** voluntarily, within one hundred (100) days thereafter, make provisions for reconstruction, which plan must have the approval or consent of one hundred (100%) percent of the First Mortgagees, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association the injured building(s) and lot(s) shall be sold by the Association, as Attorney-In-Fact for the Owners, free and clear of the provisions contained in this Declaration, the Plat and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such divided proceeds shall be paid into separate accounts with each account representing one (1) of the Condominium Units in destroyed building(s). Each such account shall be in the name of the Association, and shall be further identified by the number of the Unit and the name of the Owner. From each separate account, the Association, as Attorney-In-Fact, shall use and disburse the total amount (of each) of such accounts, without contribution from any one (1) account to another, toward the full payment of the lien of any First Mortgage against the Condominium Unit represented by such separate account. There shall be added to each such account, the apportioned amount of the proceeds derived from the sale of the Lot(s). Such apportionment shall be based upon each Condominium Unit Owner's proportionate interest in the General Common Elements. The total funds of each account shall be used and disbursed, without contribution from one (1) account to another, by the Association, as Attorney-In-Fact, for the same purposes and in the same order as is provided in subparagraph 6.2(b) above.

(d) If the Owners representing a total ownership interest of one hundred (100%) percent of the injured building(s) adopt a plan for reconstruction, which plan has the approval of one hundred (100%) percent of the First Mortgagees, then all of the Owners thereof shall be bound by the terms and provisions of such plan. Any assessment made in connection with such plan shall be a Common Expense to those owners and made pro-rata according to each Owner's proportionate interest in the Common Elements (Building) and shall be due and payable as provided by the terms of the plan. The Association shall have the authority to cause the repair and restoration of the improvements using all of the Insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner

and a lien on his Condominium Unit and may be enforced and collected as is provided in Paragraph 5.9 hereof. In addition thereto, the Association, as Attorney-In-Fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such assessment within the time provided. If the assessment is not paid, the Association shall record a notice in the conveyance records of the County advising that the Condominium Unit of the delinquent Owner shall be sold by the Association at private sale for fair market value. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as Attorney-In-Fact, for the same purposes and in the same order as is provided in subparagraph 6.2(b) above.

(e) The owners representing an aggregate ownership interest of fifty (50%) percent, but less than seventy-five (75%) percent of the Building(s) or other Common Elements, may agree that the Common Elements of the Property are obsolete and that the same should be renewed or reconstructed. In such instance, the expenses thereof shall be payable solely by the Owners so agreeing.

(f) The Owners representing an aggregate ownership interest of seventy five (75%) percent of the Building(s) or other Common Elements, or more, may agree that the Common Elements of the Property are obsolete and that the same should be renewed or reconstructed. In such instance, the expenses thereof shall be payable by all of the Owners in such Building or other Common Elements as Common Expenses, and the Association shall take appropriate action with the same rights as provided in subparagraph 6.2(b).

6.3 JUDICIAL PARTITION. There shall be no judicial partition of the Common Elements, nor shall Declarant or any person acquiring any interest in the Condominium or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Paragraph 6.1 hereof in the case of damage or destruction or unless the Property has been removed from the provisions of the Texas Condominium Act; provided, however, that if any Condominium Unit shall be owned by two (2) or more persons jointly, nothing herein contained shall be deemed to prevent a judicial partition between such co-owners. But such partition shall not affect any other Condominium Unit.

6.4 CONDEMNATION.

(a) If all or any part of any Unit or Building or Land is taken or requested by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association as Attorney-In-Fact (and each Owner) shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners affected and to all First Mortgagees known to the Association to have an interest in any affected Condominium Unit. The expense of participation in such proceedings by the Association shall be borne by the Common Fund, but allocable to those Units affected. The Association, as Attorney-In-Fact, is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association, as Attorney-In-Fact, and such damages or awards

shall be applied as provided herein. In the event that an action in eminent domain is brought to condemn a portion of the General Common Elements (together with or apart from any Condominium Unit), the Association, as Attorney-In-Fact, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such Property to the condemning authority in lieu of such condemnation proceeding.

(b) The destruction or depreciation of any particular unit or units shall be determined in the same manner and with the same result as though the condemnation were a casualty, on a per unit basis, and any compensation shall be divided pro-rata by the affected unit owners and their mortgagees.

ARTICLE VII

PROTECTION OF MORTGAGEE

7.1 NOTICE TO ASSOCIATION. An Owner who mortgages his Unit shall notify the Association, giving the name and address of his Mortgagee. Each Mortgagee shall be permitted to notify the Association of the fact that such Mortgagee holds a mortgage on a Condominium Unit. The Board shall maintain such information in a book entitled "Mortgages of Condominium Units".

7.2 NOTICE OF DEFAULT. The Association shall notify a First Mortgagee in writing, upon request of such Mortgagee, of any default by the Mortgagor in the performance of such Mortgagor's obligations, set forth in this Declaration, which is not cured within thirty (30) days.

7.3 EXAMINATION OF BOOKS. The Association shall permit First Mortgagees the same right of examination of its books as is enjoyed by Owners.

7.4 RESERVE FUND. The Association shall establish adequate reserve funds for replacement of Common Elements components and fund the same by regular monthly payments rather than by extraordinary special assessments. In addition, there shall be established a working capital fund for the initial operation of the Condominium equal to at least two (2) months estimated Common Elements charge for each Unit, said deposit to be collected at closing of Unit sale by Developer and delivered immediately to the Association..

7.5 ANNUAL AUDITS. The Association shall furnish each First Mortgagee an annual financial statement of the Association, certified by an officer of the Association within ninety (90) days following the end of the fiscal year (July 31st) of the Association beginning with the end of the first fiscal year July 31, 2004.

7.6 NOTICE OF MEETINGS. The Association shall furnish each First Mortgagee upon request of such Mortgagee, prior written notice of all meetings of the Association

and permit the designation of a representative of such Mortgagee to attend such meetings, one (1) such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

7.7 APPROVAL FOR AMENDMENTS TO DECLARATION, ETC. Prior written approval of each First Mortgagee (and the Administrator of the Veterans Administration or FHA other public agency guarantor of any such mortgage) shall be required for the following:

(a) Abandonment or termination of the Condominium Regime, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) Any material amendment to the Declaration or to the By-Laws of the Association which adversely affects a Unit owner's financial obligations, except for the amendments contemplated by this Declaration to incorporate the permitted Units and reallocate common ownership percentages and except for amendments to rules of conduct on the premises.

(c) The effectuation of any decision by the Owners Association to terminate professional management and assume self management of the Condominium after the conversion period.

7.8 NOTICE OF DAMAGE OR DESTRUCTION. The Association shall furnish the First Mortgagees timely written notice of any substantial damage or destruction of any Unit if such loss exceeds Five Thousand (\$5,000.00) Dollars and of any part of the Common Elements if such loss exceeds Fifty Thousand (\$50,000.00) DOLLARS.

7.9 MANAGEMENT AGREEMENTS. Any management agreement entered into by the Association will be terminable by the Association for cause upon not more than thirty (30) days' written notice, and the term of such management agreement will not exceed the period of one (1) year, renewable by agreement of the parties to such agreement for successive one (1) year periods. In the event of the termination of the management agreement, as provided herein, the Association may enter into a new management agreement with a new management corporation prior to the effective date of the termination of the old management agreement.

7.10 RIGHT OF PARTITION. No Unit may be partitioned or subdivided by the Owner thereof without the prior written approval of all First Mortgagees.

7.11 TAXES, ASSESSMENTS AND CHARGES. All taxes, assessment and charges which may become liens prior to the First Mortgage under local law shall relate only to the individual Condominium Units and not to the Condominium as a whole.

7.12. MORTGAGE TO BE SUBORDINATE TO DECLARATION. The current holder and any future holder of a mortgage granted by Declarant upon the entire Condominium (less and except any individual Units sold or excluded from the mortgage) as collateral security for a loan to Declarant must subordinate that mortgage to this Declaration no later than the time that the first Unit is conveyed to someone other than Declarant.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.1 AMENDMENT. Subject to the provisions of Paragraph 10.1 hereof, this Declaration shall not be revoked. No provisions herein may be amended after the conversion period, unless the Owners representing an aggregate ownership interest of seventy-five (75%) percent of the Common Elements, agree to such amendment by instruments duly recorded.

8.2 CORRECTION OF ERROR. Declarant reserves, and shall have the continuing right, until the end of the Conversion Period, without the consent of the other Owners or any Mortgagee to amend this Declaration or the By-Laws for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration or Federal Housing Administration, provided that no such amendment shall change the stated number of Units or proportionate ownership interest in the Common Elements attributable thereto.

8.3 OWNERSHIP OF COMMON PERSONAL PROPERTY. Upon termination of the Conversion Period, as defined herein, Declarant shall execute a bill of sale to the Association transferring all items of movable property located on the Premises, furnished by Declarant and intended for the common use and enjoyment of the Condominium Unit Owners and occupants. No Unit Owner shall have any individual ownership interest or other right therein, and any right and interest shall terminate upon the Unit Owner's transfer of ownership of his Condominium Unit.

8.4 CHANGE IN DOCUMENTS. The holder of any conventional mortgage covering any of the Condominium Unit shall be entitled to written notification from the Association thirty (30) days prior to the effective date of any material change in the Condominium Documents, if the mortgagee or Unit owner has notified the Association of the identity and mailing address of the mortgagee.

8.5 NOTICE. All demands or other notices intended to be served upon an Owner shall be sent by ordinary or certified mail, postage prepaid, addressed in the name of such Owner in care of the Unit number and building address of such Owner. All notices, demands or other notices intended to be served upon the Board of Directors of prepaid at the address of Declarant or Declarant's Managing Agent, until such address is changed by a notice of address change duly recorded in the Public Records of Brazos County. Any notice may also be delivered by hand-delivery.

8.6 CONFLICT BETWEEN DECLARATION AND BY-LAWS. Whenever the application of the provisions of this Declaration conflict with the application of any provisions of the By-Laws adopted by the Association, the provisions or application of this Declaration shall prevail.

8.7 INVALIDATION OF PARTS. If any of the provisions of the Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

8.8 OMISSIONS. In the event of the omission from this Declaration of any word, sentence, clause, provision or stipulation which shall be necessary for the accomplishment of the intent and purposes hereof, or any part hereof, then such omitted matter shall be supplied by inference and/or by reference to the Act.

8.9 TEXAS CONDOMINIUM ACT. The provision of this Declaration shall be in addition and supplemental to the Condominium Act of the state of Texas and to all other provision of law. The Association shall have all of the powers and rights allowed to a condominium association by Texas law from time to time.

8.10 GENDER. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all.

8.11 DECLARANT POWER. During the control period, wherever this Condominium Declaration provides that the "Board" or the "Owners" or the "Association" must take or approve some action, the Declarant or its successor or assigns shall retain the power to so act in place of the "Board," the "Owners," or the "Association." The Declarant's control period runs until the earlier of June 1, 2013, or until 75% of the permissible Units - including permitted future construction - are sold to persons other than Declarant or Declarant's successor or assigns, unless earlier terminated by Declarant.

ARTICLE IX

ADDITIONS TO REGIME

9.1 Declarant hereby reserves the exclusive right to build up to sixteen (16) free-standing buildings of up to eight (8) Units each for a total of up to one hundred and twenty-eight (128) Units on the land site as depicted by the plans attached to this Declaration over a ten (10) year period; however, no other land and no more than one hundred and twenty-eight (128) Units as shown by the attached plans are eligible to be included in this Condominium in the future. Declarant's reservation of rights to build the Units as shown by the attached plans lies totally within Declarant's discretion and imposes no obligation to do so prior to the expiration of the time period. Declarant's action shall not adversely affect existing individual Units in the Regime, but will result in a permissible variation in respective Unit owners' percentage interest in the Common elements. The percentage sharing of the Common Surplus and Common Expenses and their respective voting rights in the Association will necessarily vary for the Unit owners between 1/40 (for the first 40 units now existing) and 1/128 (for the maximum total of 128 units which can be created in the future). The common expenses (or surplus) allocable to each unit owner pro rata will remain

substantially static, regardless of the number of future Units; however, the maximum efficiency of scale (and least cost per Unit) could be achieved when the maximum allowable number of Units are added to the Condominium. Declarant hereby reserves the power to reallocate the undivided interest in the common areas to the Units at such time as any allowed Unit is created at a permitted future date. However, such reallocation shall occur *ipso facto* as each additional Unit is created and certified as ready for occupancy..

9.2 As units are completed within the Regime, the percentage interest in the Common Surplus and Common Expenses then existing shall be modified so that each Unit, including the new Units, will have an equal percentage of ownership and equal sharing of costs in the common elements.

9.3 All additions of Units to the Regime must be effected within ten (10) years of June 1, 2003 (the Conversion period).

9.4 The Buildings as shown on the attached plans and Units within them may be added in several stages, at different times. Declarant may elect to modify Unit design within the projected buildings in the future, for example, making only six (6) Units of larger size (instead of eight) within the same building space. No representation is made nor intended that any additional buildings or Units will be erected or added to the Regime at any particular time before June 1, 2013, after Phase I is completed and ready for occupancy; and nothing herein shall be construed as imposing any obligation on Declarant to undertake such constructions or as imposing any burden or encumbrances on the land of the Regime. The addition of the permitted Units would have no adverse affect on the integrity or value of the Condominium, nor the individual Units.

9.5 The maximum number of units that may be included in this Condominium within the next ten (10) years is one hundred twenty-eight (128).

9.6 All additional Units shall be restricted to residential use and will be added in a manner that, in Declarant's judgment, will be compatible with the original Units in terms of architectural style, quality of construction and principal materials employed in construction; however, Declarant reserves the right, in its sole discretion, to vary the size and floor plan of future Units and to determine the selling prices thereof; however, any Unit and Building added to this Condominium after Phase I, but prior to June 1, 2013, must be substantially equal in exterior appearance and at least equal in quality to the existing units.

9.7 All of the covenants of this Declaration affecting use, occupancy and alienation of Units will apply to all additional Units.

9.8 The Common Elements and Limited Common Elements which will be added to the Regime if additional Units are added will be at least equal in scope and quality to the original elements provided for herein.

9.9 Declarant reserves the right to make all decisions relative to the placement of improvements that may be made on the land, substantially consistent with the plans attached.

ARTICLE X

REMOVAL of UNITS or GROUNDS FROM CONDOMINIUM REGIME

10.1 Declarant and/or its successors and assigns as owners (including Unit purchasers) of 100% of the ownership interest in all existing units and ground area may remove the entirety of the land and buildings (and Units therein) from the effect of this declaration by unanimous action at any time, if all liens and mortgages which affect any individual units are paid or otherwise extinguished simultaneously or in due course of time shortly thereafter.

10.2 No individual Units or land may be voluntarily removed from the Condominium in any other manner; except that the Declarant (or its assigns) or the Association may alienate nominal areas of ground or servitudes or easements free from this Declaration when necessary to accomplish a boundary agreement or create an easement, right of way, public street or the like, if there is no material impact on the integrity of the Condominium or any individual Unit.

10.3 When the Units, Buildings and underlying ground (and other improvements) are removed from the Condominium Regime, the Association shall retain all monies paid to it as prior assessments, subject to the obligation to distribute to the owners pro rata any net surplus after all annual expenses are charged to the fund. No unpaid assessments, shall constitute a lien on the land and buildings removed from the Condominium. A letter under the signature of the President or Treasurer of the Association shall be full proof of the existence or the non-existence of such a lien; and recordation of such a letter shall entitle all future purchasers to rely conclusively upon its recitals, regardless of whether or not the letter has been acknowledged by the signatory officer.

Attached Exhibits to this Declaration

EXHIBIT A Site Plan of Land and improvements of Condominium showing existing and future improvements relative to perimeter boundary and each other improvement certified by Engineer.

EXHIBIT B Title Insurance Policy for this land.

EXHIBIT C Overall Site Plan which depicts Unit locations in buildings and parking space assignment to Units.

EXHIBIT D: Unit Plans, 7 sheets of drawings: (Units: 2 BR ground, 2 BR ground-HC, 3 BR upper floor)
Site Plan showing which Buildings have HC accessible Units
Floor plan of Unit, 1st level
Floor plan of Unit, 1st level- HC
Floor plan of Unit, 2nd level
Floor plan of Unit, 3rd (loft) level
Elevations of all Units, all levels & Composite floor plans

EXHIBIT E: Copy of Articles of Incorporation and Bylaws of the Condominium Association.

EXHIBIT F: Copy of Condominium Information Statement required by the Act (10 pages).

CONDOMINIUM DECLARATION
for
FOX RUN Condominiums
College Station, Texas

Declarant's Certification & Acknowledgment:

This Declaration and the attached EXHIBITS conform to the Uniform Condominium Act as adopted by the state of Texas, and the Plats and Plans contain the information required by the Act, and are hereby adopted, effective July 1, 2003.

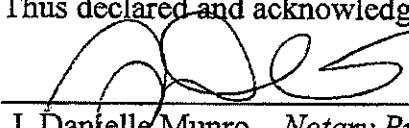
HiHo Development, Ltd.

BY: 

Jonathan C. Harris, Condominium Counsel
& authorized agent

Before me, the undersigned Notary Public, personally appeared: **Jonathan C. Harris**, to me known or properly identified, who declared upon oath by me given, that he is the same person by that name who signed the above act entitled "**Condominium Declaration for FOX RUN Condominiums - College Station, Texas**" as the duly authorized agent of **HiHo Developers, Ltd.**, of his own free will for the purposes therein stated.

Thus declared and acknowledged on July 1st, 2003, at Baton Rouge, Louisiana


J. Danielle Munro, Notary Public

State of Louisiana
Parish of East Baton rouge

MY COMMISSION EXPIRES: at death

copyright 2003
HARRIS LAW FIRM
BATON ROUGE, LA.
(225) 387-1600

TEXAS OWNER POLICY OF TITLE INSURANCE

COVER SHEET

GF NO.: 00030687

POLICY NO.: 1343-33077

ISSUED SIMULTANEOUS WITH POLICY NO. 1493-224309

PROPERTY CODE: C

COUNTY: Brazos

AMOUNT OF INSURANCE: \$ 4,000,000.00

DATE OF POLICY: February 12, 2003 at 2:51 PM

RATE RULE(S)/CODE(S):

1230 Credit for surrendered OTP-1343-33058

PREMIUM:

\$ 20,762.00

\$ -7848.00

\$

\$

\$

TOTAL

\$ 12,914.00

NAME OF INSURED:

HiHo Developers Ltd. a Texas limited partnership

University Title Company

Fidelity National Title Insurance Company

Texas Owner T-1 (Rev. 1-1-93) - Cover Sheet

TEXAS OWNER POLICY OF TITLE INSURANCE

SCHEDULE A

ISSUED SIMULTANEOUS WITH POLICY NO. 1493-224309

Policy No. 1343-33077

GF No.: 00030687

Amount of Insurance \$4,000,000.00

Date of Policy February 12, 2003 at 2:51 PM

Premium \$12,914.00

1. Name of Insured:

HiHo Developers, Ltd., a Texas limited partnership

2. The estate or interest in the land that is covered by this policy is:

Fee Simple

3. Title to the estate or interest in the land is insured as vested in:

HiHo Developers Ltd., a Texas limited partnership

4. The land referred to in this policy is described as follows:

See Exhibit A attached hereto and made a part hereof.

University Title Company

Texas Owner T-1 (Rev. 1-1-93) - Schedule A

Fidelity National Title Insurance Company

Valid Only if Schedule B and Cover are attached

Exhibit A

Lot Three A (3A), Block One (1), Replat of Lots 1-3, Block 1 Melrose Subdivision, City of College Station, according to plat thereof recorded in Volume 3020, Page 89 of the Official Records of Brazos County, Texas, also described as:

A 9.184 acre tract or parcel of land, situated in the City of College Station, Brazos County, Texas, being lot 3A, Block 1, Replat of Lots 1-3, Melrose Subdivision, of record in Volume 3020, Page 89 of the Official Records of Brazos County, Texas; said 9.184 acres being more particularly described by metes and bounds as follows:

BEGINNING, at a 1/2 inch iron rod with cap set in the southerly right-of-way line of Luther Street (R.O.W. varies), being the most westerly corner of said Lot 3A, Block 1, same being the most northerly corner of Lot 2A, Block 1 of said Replat of Lots 1-3, Melrose Subdivision;

THENCE, along the southerly line of Luther Street, being the westerly line of said Lot 3A, Block 1, the following two (2) courses and distances:

- 1) N 44° 45' 39" E, a distance of 185.25 feet to a 1/2 inch iron rod with cap set for an angle point;
- 2) N 44° 14' 20" E, a distance of 499.18 feet to a 1/2 inch iron rod with cap set for the most northerly corner of said Lot 3A, Block 1, being in the westerly line of that certain 0.25 acre tract of land conveyed to A. Hughes by deed of record in Volume 82, Page 589 of the Deed Records of Brazos County, Texas;

THENCE, leaving the southerly line of Luther Street, along the westerly and in part the easterly line of said 0.25 acre tract and a portion of the westerly line of Lot 4A, Block 1 of said Replat of Lots 1-3, Melrose Subdivision, same being the easterly line of said Lot 3A, Block 1, the following nine (9) courses and distances;

- 1) S 47° 56' 44" E, a distance of 93.30 feet to a 1/2 inch iron rod found at an angle point, being the most southerly corner of said 0.25 acre tract;
- 2) N 42° 45' 01" E, a distance of 15.35 feet to a 1/2 inch iron rod found at an angle point;
- 3) S 46° 03' 48" E, a distance of 400.69 feet to a 1/2 inch iron rod found at the most easterly corner of said Lot 3A, Block 1;
- 4) S 30° 32' 06" W, a distance of 268.61 feet to a 1/2 inch iron rod found at an angle point;
- 5) S 18° 34' 35" W, a distance of 113.61 feet to a 1/2 inch iron rod found at the point of curvature of a non-tangent curve to the right;
- 6) Along said non-tangent curve to the right having a radius of 129.00 feet, a central angle of 74° 33' 44", an arc distance of 167.88 feet and a chord which bears S 56° 43' 00" W, a distance of 156.28 feet to a 1/2 inch iron rod found at the end of said curve;
- 7) N 83° 00' 42" W, a distance of 13.46 feet to a 1/2 inch iron rod found at an angle point;
- 8) S 13° 19' 13" W, a distance of 84.27 feet to a 1/2 inch iron rod found at an angle point;
- 9) S 44° 11' 33" W, a distance of 108.75 feet to a 1/2 inch iron rod found at the most southerly corner of said Lot 3A, Block 1, being in the easterly line of said Lot 2A, Block 1;

THENCE, N 45° 47' 15" W, leaving the westerly line of said Lot 4A, Block 1, along a portion of the westerly line of said Lot 3A, Block 1, being a portion of the easterly line of said Lot 2A, Block 1, a distance of 606.95 to the POINT OF BEGINNING, containing an area of 9.184 acres (400,074 square feet) of land, more or less, within these metes and bounds.

NOTE: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.

SCHEDULE B

GF No.: 00030687

Policy No.: 1343-33077

This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) that arise by reason of the terms and conditions of the leases or easements insured, if any, shown in Schedule A and the following matters:

1. Item No. 1, Schedule B, is hereby deleted.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any, of any spouse of any insured.
4. Any titles or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities,
 - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
 - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation or the right of access to that area or easement along and across that area.
5. Standby fees, taxes and assessments by any taxing authority for the year 2003, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, *Texas Tax Code*, or because of improvements not assessed for a previous tax year.
6. The following matters and all terms of the documents creating or offering evidence of the matters (the Company must insert matters or delete this exception):
 - a. Vendor's Lien retained in Deed (Assumption):

Grantor: **A. Mitchell Richardson, a married man not joined herein by his spouse as this property will constitute no portion of his homestead**
Grantee: **HiHo Developers, Ltd., a Texas limited partnership**
Dated: **February 11, 2003**
Recorded: **February 12, 2003, Volume 5111, Page 118, Official Records, Brazos County, Texas.**

Additionally secured by Deed of Trust-Security Agreement-Construction Mortgage Financing Statement-Fixture Filing:

Grantor: **HiHo Developers, Ltd., a Texas limited partnership**
Trustee: **Jeffrey W. Martin**
Amount: **\$4,000,000.00**
Beneficiary: **Union Planters Bank, N. A.**
Dated: **February 11, 2003**
Recorded: **February 12, 2003, Volume 5111, Page 122, Official Records, Brazos County, Texas.**

University Title Company

Fidelity National Title Insurance Company

Texas Owner T-1 (Rev. 1-1-93) - Schedule B

Valid Only if Schedule A and Cover are attached

SCHEDULE B - continued

GF No.: 00030687

Policy No.: 1343-33077

b. Deed of Trust to secure a Note:

Grantor: **A. Mitchell Richardson, a married man not joined herein by his spouse as this property constitutes no portion of his homestead property**
Trustee: **P. Ragan Richard**
Beneficiary: **Richard M. Hill, M.D.**
Amount: **\$1,035,000.00**
Dated: **September 24, 2002**
Recorded: **Volume 4878, Page 92, Official Records, Brazos County, Texas.**

Said lien being Transferred to Union Planters Bank, N. A.

Dated: **February 11, 2003**
Recorded: **Volume 5111, Page 144, Official Records, Brazos County, Texas.**

c. Development Agreement by and between:

Parties: **City of College Station and Integroup, Inc.**
Dated: **January 28, 1997**
Recorded: **Volume 3081, Page 125, Official Records, Brazos County, Texas.**

d. Temporary Blanket Utility Easement:

From: **MBO Corp.**
To: **City of College Station**
Dated: **April 15, 1998**
Recorded: **Volume 3097, Page 62, Official Records, Brazos County, Texas.**

e. Mineral Reservation in Deed:

By: **Ray Walker, Trustee**
To: **MBO Corp.**
Dated: **November 17, 1997**
Recorded: **Volume 2978, Page 323, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

f. Mineral Reservation in Deed:

By: **Cayuse II, Ltd., et al**
To: **MBO Corporation**
Dated: **November 13, 1997**
Recorded: **Volume 2978, Page 329, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

g. Surface Waiver:

From: **Ogden Resources Corp.**

SCHEDULE B - continued

GF No.: 00030687

Policy No.: 1343-33077

To: **Kiowa, Ltd., et al**
Dated: **November 11, 1997**
Recorded: **Volume 2975, Page 164, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.

h. Term Minerals Reservation in Deed:

By: **Addie E. Ayers, et vir**
To: **J. B. Hervey, et al**
Dated: **October 11, 1969**

Recorded: **Volume 281, Page 773, Deed Records, Brazos County, Texas;** clarified by Stipulation of Interest in **Volume 673, Page 754, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

i. Oil and Gas Lease, and all terms, conditions and stipulations therein:

Lessor: **Cayuse, Ltd.**
Lessee: **Ogden Resources Corporation**
Dated: **December 22, 1995**

Recorded: **Volume 2508, Page 58, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

j. Oil and Gas Lease, and all terms, conditions and stipulations therein:

Lessor: **Katie L. T. Jenkins**
Lessee: **Ogden Resources Corporation**
Dated: **December 19, 1995**

Recorded: **Volume 2517, Page 199, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

k. Oil and Gas Lease, and all terms, conditions and stipulations therein:

Lessor: **John W. Thompson**
Lessee: **Ogden Resources Corporation**
Dated: **December 19, 1995**

Recorded: **Volume 2517, Page 203, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically

SCHEDULE B - continued

GF No.: 00030687

Policy No.: 1343-33077

damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

l. Oil and Gas Lease, and all terms, conditions and stipulations therein:

Lessor: **Aaron J. Thompson**

Lessee: **Ogden Resources Corporation**

Dated: **December 19, 1995**

Recorded: **Volume 2526, Page 28, Official Records, Brazos County, Texas; and the notice thereof in Volume 2524, Page 9, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

m. Mineral Reservation in Deed:

By: **Heirs of Wesley Foster**

To: **Ray A. Walker, Trustee**

Dated: **May 13, 1992**

Recorded: **Volume 1497, Page 151, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

n. Mineral Deed:

By: **Remaker Banks**

To: **Ray A. Walker, Trustee**

Dated: **April 9, 1993**

Recorded: **Volume 1772, Page 167, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

o. Oil and Gas Lease, and all terms, conditions and stipulations therein:

Lessor: **Napoleon Foster**

Lessee: **Union Pacific Resources Company**

Dated: **February 22, 1996**

Recorded: **Volume 2695, Page 309, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and

SCHEDULE B - continued

GF No.: 00030687

Policy No.: 1343-33077

gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

- p. Oil and Gas Lease, and all terms, conditions and stipulations therein:

Lessor: **Ray A. Walker, Trustee**

Lessee: **Union Pacific Resources Company**

Dated: **November 11, 1996**

Recorded: **Volume 2727, Page 147, Official Records, Brazos County, Texas.** Title to said interest has not been investigated subsequent to the date of the aforesaid instrument. "Rights, if any, of any holder of an oil and gas or mineral interest (the "Minerals") in the land to exercise any right of access to the Minerals by physically damaging, partially or totally, permanent improvements now existing or subsequently constructed on the land, in order to explore or develop said mineral interests. Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land."

- q. Any and all liens arising by reason of unpaid bills or claims for work performed or materials furnished in connection with improvements placed, or to be placed, upon the subject land. However, the Company does insure the Insured against loss, if any, sustained by the Insured under this Policy if such liens have been filed with the County Clerk of Brazos County, Texas, prior to the date hereof.
- r. Liability hereunder at the date hereof is limited to \$1,035,000.00. Liability shall increase as contemplated improvements are made, so that any loss payable hereunder shall be limited to said sum plus the amount actually expended by the Insured in improvements at the time the loss occurs. Any expenditures made for improvements, subsequent to the date of this Policy, will be deemed made as of the date of this Policy. In no event shall the liability of the Company hereunder exceed the face amount of this Policy. Nothing contained in this paragraph shall be construed as limiting any exception or any printed provision of this Policy.

University Title Company

By: 
Authorized Countersignature (ds1)

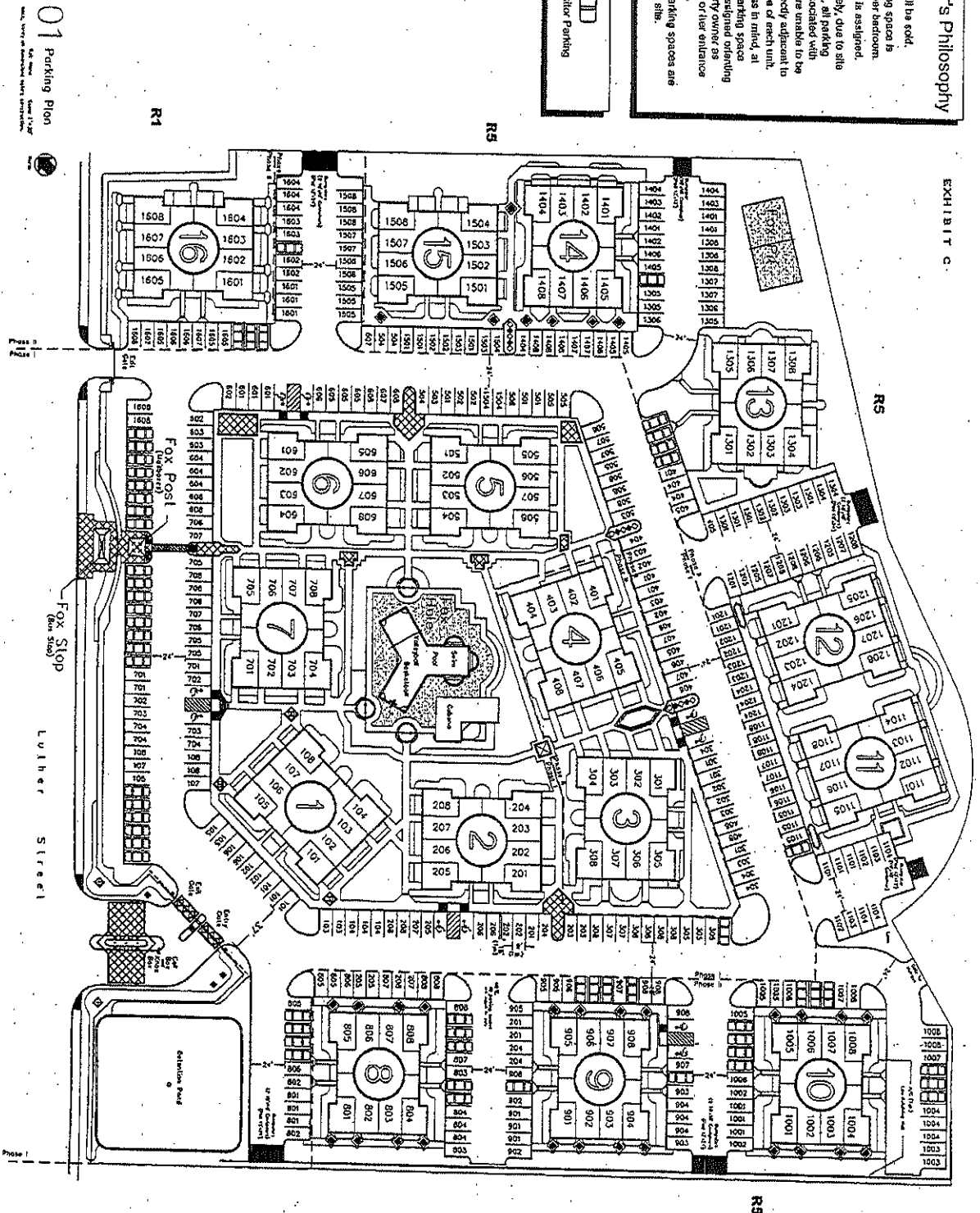
Developer's Philosophy

- All units will be sold.
- One parking space is assigned per bathroom.
- All parking is assigned.
- Unfortunately, due to site constraints, all parking spaces associated with each unit are unable to be located directly adjacent to the entrance of each unit.
- With fairness in mind, all leased cars parking space has been assigned to each property owner as close to the entrance as possible.
- 56 Guest Parking spaces are provided on site.

Indicates Visitor Parking



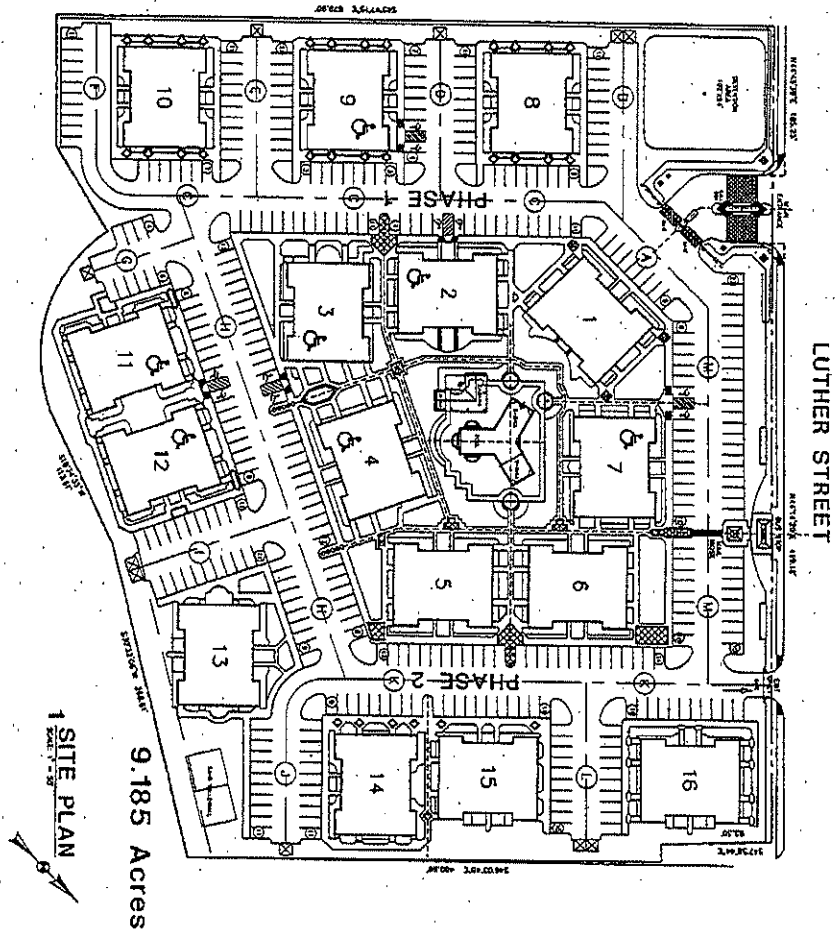
EXHIBIT C



Parking Plan

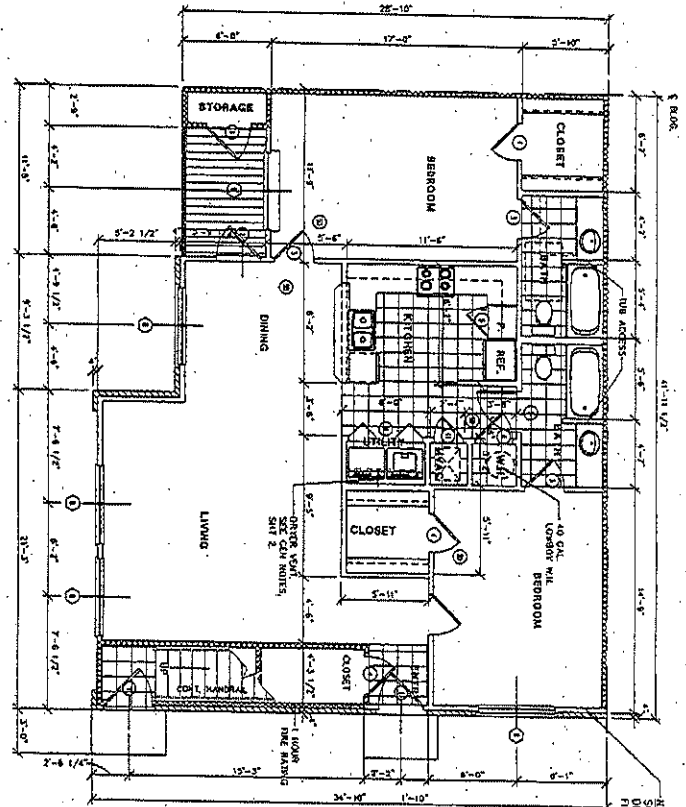
SP 1

1/27/03 - 444
1/28/03 - 444



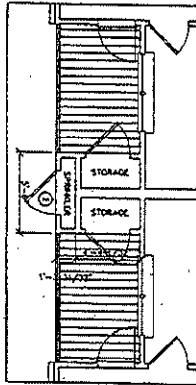
Unit Type	Composition	No. of Units	Bed. Points
A	2 Bdrm/2 Bath	64	128
B	2 Bdrm/1 Bath	128	256
PARKING			
BUILDING -	352		
GUEST -	20		
TOTAL -	372		
GUEST PARKING IS 5% OF TOTAL			

SHEET 4	SHEET TITLE Site Plan	Fox Run Apartments 603 West Luther Street College Station, TX Hi Ho Developers LP, P.O. Box 77479, Baton Rouge, LA 70879		REVISIONS 3/04/03 5/11/03		JAMES D. DODDS NCARB AIA ARCHITECT Texas Lic. #7284 409 N. Seventh Street BATON ROUGE, LA 70802 (225) 215-1777
		PROJECT NUMBER: 02-2140 COMPUTER FILE: 2092-043		ALL DIMENSIONS ARE 1/2" SCALE UNLESS NOTED		



(UNIT A) - 2 BDRM - FIRST FLOOR PLAN
SCALE 1/8" = 1'-0"

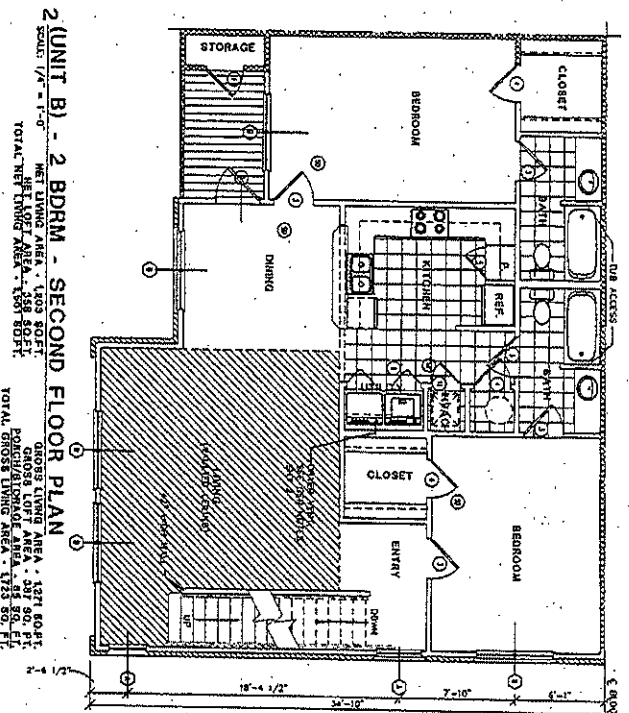
NET LIVING AREA - 1203 SQ. FT.
GROSS LIVING AREA - 1271 SQ. FT.
PORCH/STORAGE AREA - 85 SQ. FT.
TOTAL GROSS LIVING AREA - 1356 SQ. FT.



4 Sprinkler Closet Plan
SCALE 1/4" = 1'-0"

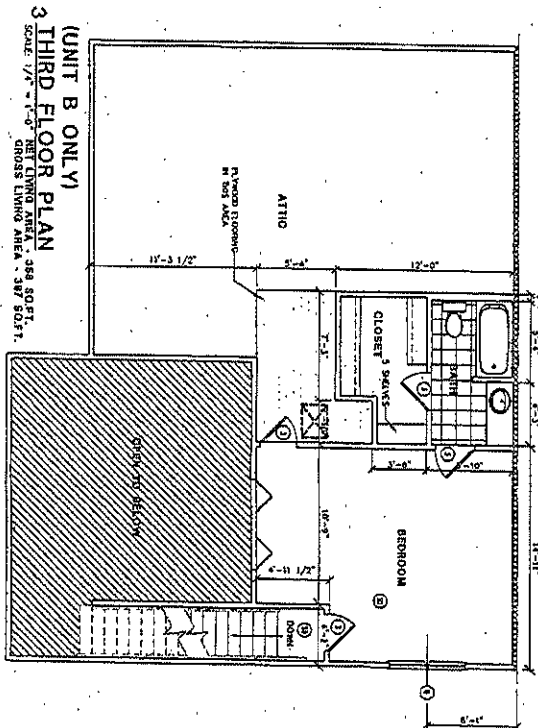
NOTE: SEE GENERAL NOTES SHEET 4 FOR DISPOSITION OF SPRINKLER HEADS FOR UNIT BUILDING CERTIFICATES FOR COMPOSITE BUILDING PLANS.

NOTE: SHARED WALLS INDICATE 1/2" SHARED WALLS PERMANENT 1/2" FIRST FLOOR



(UNIT B) - 2 BDRM - SECOND FLOOR PLAN
SCALE 1/8" = 1'-0"

NET LIVING AREA - 1203 SQ. FT.
GROSS LIVING AREA - 1271 SQ. FT.
PORCH/STORAGE AREA - 85 SQ. FT.
TOTAL GROSS LIVING AREA - 1356 SQ. FT.



(UNIT B ONLY)
3 THIRD FLOOR PLAN
SCALE 1/8" = 1'-0"

NET LIVING AREA - 354 SQ. FT.
GROSS LIVING AREA - 387 SQ. FT.

SHEET A1	SHEET TITLE Unit Floor Plan	Fox Run Apts.- Scheme 2 801 West Luther Street College Station, TX H. Ho Development LP P.O. Box 77478, Baton Rouge, LA 70879 PROJECT NUMBER: D2-2140 COMPUTER FILE: 2092-A-01
	DATE: 6/11/03	



JAMES D. DODDS
NCARB
ARCHITECT
Texas Lic. #7284
409 N. Seventh Street
BATON ROUGE, LA 70802
(225) 215-1777

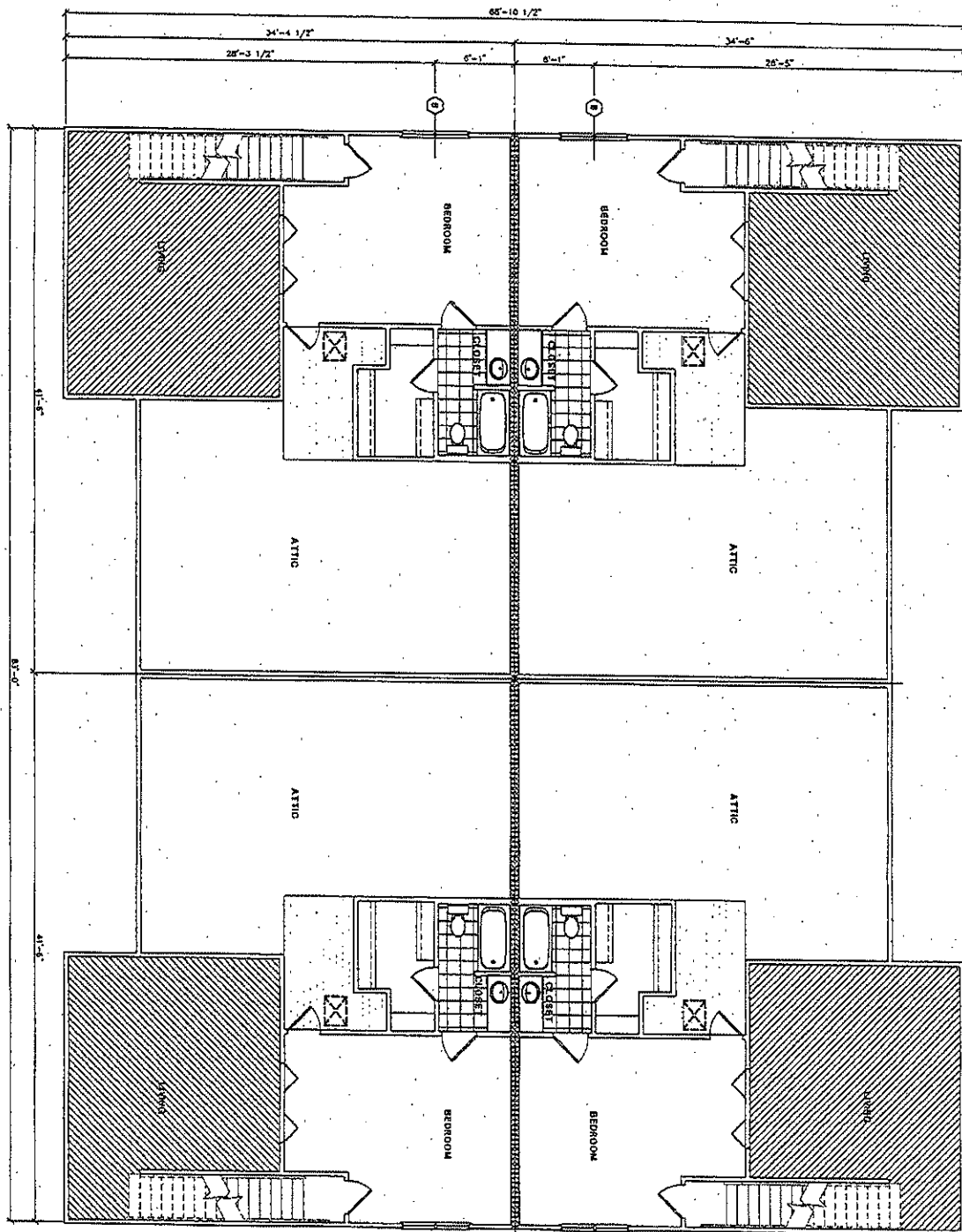
JAMES D. DODDS
NCARB AIA
ARCHITECT
Texas Lic. #7234
408 N. Seventh Street
BATON ROUGE, LA 70802
(225) 215-1777

1 Composite Building Loft Floor Plan
SCALE 1/4" = 1'-0"
1st FLOOR GROSS SPACE 5,364 SF
4th FLOOR GROSS SPACE 3,664 SF

1 Composite Building Loft Floor Plan


SCALE 1/4" = 1'-0"	
1st FLOOR GROSS SPACE	5,344 S.F.
2nd FLOOR GROSS SPACE	5,134 S.F.
LOFT GROSS SPACE	1,444 S.F.
TOTAL GROSS SPACE	12,236 S.F.

SEE SHEET A1
FOR UNIT SQ. FT.



LEGEND

WOOD FINAID WALL
MOCKETS
BRICK VINYL
MOCKETS
FIRE RATED WALL
MOCKETS 1 LG.
DOOR 2' x 4'
5005 8' 16' OC.
w/ thresholds
MOCKETS
DOOR 2' x 4'

	SHEET TITLE Building 1 Loft Floor Plan
DATE: 6/11/03	DRAWN BY: slv

Fox Run Apts.- Scheme 2
601 West Luther Street
College Station, TX
Hi Ho Developers, LP,
P.O. Box 77479, Baton Rouge, LA 70879

PROJECT NUMBER: 02-2140	COMPUTER FILE: 2092-B.1.3
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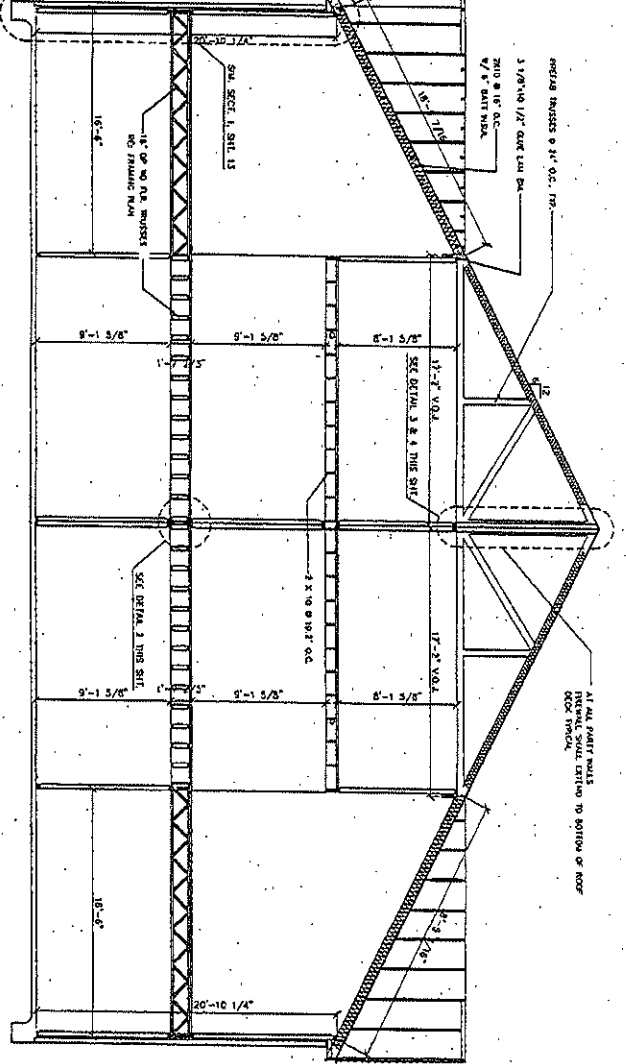
REVISIONS

ALL DIMENSIONS ARE
1/2" SCALE UNLESS NOTED

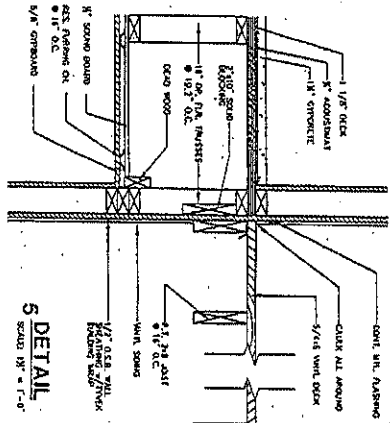
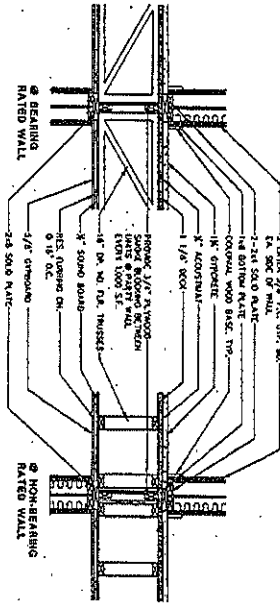


JAMES D. DODDS
NCARB AIA
ARCHITECT
Texas Lic. #7284
409 N. Seventh Street
BATON ROUGE, LA 70802
(225) 215-1777

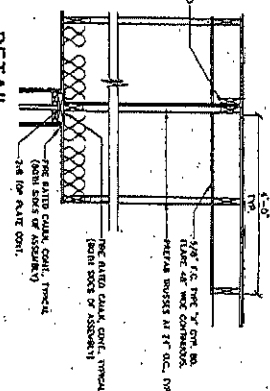
1 PARTIAL BLDG. SECTION
SCALE 1/4" = 1'-0"



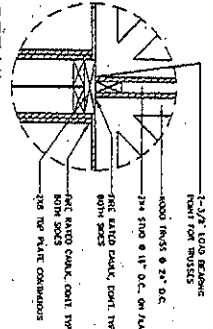
2 DETAILS
SCALE 3/8\" = 1'-0"



4 DETAIL PARTY WALLS (SEE 10238)
SCALE 3/8\" = 1'-0"



3 DETAIL RATED PARTY WALL @ TRUSS BRG.
SCALE 1/4\" = 1'-0"



SHEET
B1.6
DATE 6/11/03

SHEET TITLE
Building Section
Wall Section
Details
DRAWN BY: SCV

Fox Run Apts.- Scheme 2
601 West Luther Street
College Station, TX
Hi Ho Developers L.P.
P.O. Box 77479, Baton Rouge, LA 70878
PROJECT NUMBER: D2-2140 COMPUTER FILE: 2092-01.6

REVISIONS
ALL DIMENSIONS IN
1/4\" SCALE UNLESS NOTED



JAMES D. ODDDS
NCARB AIA
ARCHITECT
Texas Lic. #7224
409 N. Seventh Street
BATON ROUGE, LA 70802
(225) 416-1777

Exhibit E to Condominium Declaration

FOX RUN CONDOMINIUM ASSOCIATION

(a Texas non-profit corporation)

ARTICLES of Incorporation

1. Name: The name of this corporation is **FOX RUN Condominium Association**, a non-profit corporation formed under the laws of Texas, and especially Article 3.02 of the Texas Non-Profit Corporation Act..

2. Registered Agent and Registered Office: The corporation's initial registered agent is **Jimmy Earl Easterly** an individual resident of the State whose address is 2110 Quail Hollow, Bryan, Texas (TX 77803). The corporation's domicile is the county of Brazos and the registered office address of the corporation is 801 Luther Street West, College Station, Texas (TX 77840).

3. Management: The entire corporate power and management of the affairs of the corporation is vested in a board of at least three (3) Directors. The directors must be persons of at least 21 years of age, but Directors need not be Unit owners. The initial Directors are appointed by these Articles. Thereafter, Directors shall be appointed by the Declarant (or its successor to Declarant rights) from time to time at the pleasure of the Declarant, subject to rule of the Texas Uniform Condominium Act (Sec 82.103) that Unit owners must be allowed to elect one-third (1/3) of the Directors at a point in time within 120 days after 50% of the authorized Units of the Condominium have been sold by Declarant. Declarant's over-riding control of the Board of Directors and Association is limited to a point in time within 120 days after 75% of the authorized Units of the Condominium have been sold by Declarant. After termination of Declarant control, there must be at least three (3) Directors to constitute the Board of Directors or such other number as required by law from time to time.

The initial directors and their addresses are: **William H. Hopper**, **William J. Lively** and **Jimmy Earl Easterly**, who shall serve in office until successor directors are appointed or elected according to these Articles and the By-laws. The initial directors shall retain office for all purposes until actually succeeded in office.. Any two of the initial three Directors (or their successors) have the authority to act for the Board and Association by a written Resolution signed by the Directors.

William J. Lively	Jimmy Earl Easterly	William H. Hopper
5915 Vicksburg Drive	2110 Quail Hollow	1892 Tudor Drive,
Baton Rouge, La. (LA 70817)	Bryan, Texas (TX 77803)	Baton Rouge, La. (LA 70815)

4. Organizational Structure: The Corporation shall be composed of Members. Membership is non-stock membership and is restricted to Owners of the Condominium Units in the **FOX RUN CONDOMINIUMS** of College Station in Brazos County, Texas. The voting rights of members and all other obligations and privileges are established by the Condominium Declaration and the Bylaws adopted by the Association.

FOX RUN Condominium Association
Articles of Incorporation, page two.

5. Duration: The corporation shall have perpetual existence.

6. Purpose: The corporation's original purpose is the preservation, maintenance, management and improvement of the land and buildings comprising that land development known as **Fox Run Condominiums** in College Station situated in Brazos County of the state of Texas, being a tract of land surveyed as 9.184 acres (400,074 sq. ft.) designated as "Lot 3A" of Block "1" of **Melrose Subdivision** of the city of College Station which is a tract created out of the resubdivision (replat) of former Lots 1, 2 & 3 of Block "1" of Melrose Subdivision, as created and designated by the official resubdivision plat recorded in Volume 3020 at page 89 of the official land records of Brazos County of the state of Texas.

7. Supplemental Provisions:

A. Bylaws: Bylaws may be promulgated by the incorporator or initial directors to hereafter control the number, qualifications, powers and other particulars concerning directors of this corporation. All other particulars pertaining to directors and officers of the corporation may be determined by bylaws duly adopted by the members or board of directors from time to time. Any matter not addressed by these articles may be governed by the bylaws.

B. Amendment: These articles may be amended by a vote or written consent of 2/3 of the members or by 2/3 of the Directors conformably to the manner established by these Articles, the Condominium Declaration and the Bylaws of the association.

C. Dissolution: Dissolution of the corporation shall be subject to the limitations recited in the Condominium Declaration and the laws of the state of Texas.

D. Directors: In addition to any other method allowed by law, a majority of the directors who are competent to act, may act in writing on behalf of the corporation with the same effect as though such had been accomplished by resolution adopted by majority at a meeting of the directors. The directors may so act, either personally or by authorized agent, to incur debt and issue promissory notes or other evidence thereof, to acquire and alienate and encumber by any means any immovable or movable property or real, personal or mixed property, or any lesser rights and are fully enabled to undertake any action on behalf of the corporation and to make every sort of contract and sign any written act evidencing any contract or engagement.

E. Incorporator: The name and address of the incorporator is:

Jonathan C. Harris
1873 E. Lakeshore Drive
Baton Rouge, Louisiana (LA 70808-1460).

FOX RUN Condominium Association
Articles of Incorporation, page three.

Notwithstanding, any other provision of these Articles of Incorporations, until December 31, 2003, the **incorporator** is authorized and enabled to act for the initial directors to amend these Articles of Incorporation or to adopt and amend bylaws of the corporation and otherwise take any action for the Corporation which could be taken by the initial directors. The mere declaration by the incorporator that he has been so instructed by resolution or written direction of at least two-thirds of the initial Directors shall be conclusive evidence of his authority to so act.

Effective Date of Filing: This document will become effective when the document is filed by the Secretary of State of the state of Texas.

Execution: The undersigned incorporator signs these articles of incorporation (subject to the penalties imposed by law for the submission of a false or fraudulent document) to create the described corporation on this 1st day of June, 2003, at Baton, Louisiana.

s/ Jonathan C. Harris

Jonathan C. Harris, *Incorporator*
1873 East Lakeshore Drive
Baton Rouge, Louisiana (LA 70808)

Before me, the undersigned Notary Public of the parish of EAST BATON ROUGE of the state of LOUISIANA, personally appeared Jonathan C. Harris, to me known to be a competent major person, who acknowledged that he executed the attached Articles of Incorporation for **FOX RUN Condominium Association** of his free will for the purposes recited.

Thus declared and signed on June 1, 2003.

s/ J. Danielle Munro

J. Danielle Munro, *Attorney at Law & Notary Public*

Parish of EAST BATON ROUGE
State of LOUISIANA
United States of America

Commissioned for Life

BY-LAWS OF THE FOX RUN CONDOMINIUM ASSOCIATION
College Station, Brazos County, Texas

Whereas the Declaration of Condominium for the **FOX RUN Condominiums** of College Station, Texas, provides that the Condominium shall be operated and governed by an association of the owners of the several Units of the condominium, the undersigned incorporator acting under the authority of the Articles of Incorporation of the **FOX RUN Condominium Association** and pursuant to the directives of the Owner of the Condominium does hereby adopt the following By-Laws which shall govern the operation of the Association, subject to the Articles of Incorporation and subject to the stipulations of the Declaration of Condominium for **FOX RUN Condominiums** filed in Brazos County, state of Texas.

I. Name: The condominium is known as **FOX RUN Condominiums** of College Station, Texas. This Association of Unit owners is a non-profit corporation chartered by the state of Texas and is named **FOX RUN CONDOMINIUM ASSOCIATION**, organized for the purposes of administering and managing the Condominium.

II. Members:

(A) Membership in the Association is limited to owners of the Units of **FOX RUN Condominiums** in College Station, Texas, and said persons shall be entitled to one vote for each unit owned. The annual members' meeting shall be held at the office of the association at 10:00 o'clock A.M., Central Standard Time, on the first Saturday of September of each year (beginning year 2004) for the purpose of electing directors and of transacting any other business authorized to be transacted by the members; provided however, if that day be a special legal holiday, the meeting may be held at 3:00 o'clock, p.m., on the first Sunday of September.

(B) Special members' meetings shall be held whenever called by the President or Vice-President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from one-third or more of the entire membership.

(C) Notice of all members' meetings stating the time and place and the objects for which the meeting is called shall be given by the President, Vice-President or Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than twenty (20) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of any meeting may be waived before or after the particular meeting, in each instance.

By-laws, page 2.

(D) A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum.

(E) The vote of the owners of a Dwelling Unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the owners of the Dwelling Unit, and filed with the Secretary of the Association. Such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not on file the vote of such owners shall not be considered in determining the requirement for a quorum nor for any other purpose.

(F) Votes may be cast in person or by proxy. Proxies shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting.

(G) Approval or disapproval of the Dwelling Unit Owner upon any matter, whether or not the subject of an Association meeting, shall be by the same person who would cast the vote of such owner if in an Association meeting.

(H) If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum may be obtained.

(I) The order of business at annual members' meetings, and, as far as practical at all other members' meetings, shall be:

- (1) Election of a chairman of the meeting;
- (2) Calling of the roll and certifying of proxies;
- (3) Proof of notice of meeting or waiver of notice;
- (4) Reading and approval/correction of any unapproved minutes;
- (5) Reports of officers;
- (6) Election of inspectors of election;
- (7) Election of Directors;
- (8) Unfinished business;
- (9) New Business;
- (10) Adjournment.

FOX RUN Condominium Association
By-laws, page 3.

III. Directors.

(A) The Board of Directors shall consist of not less than three (3) nor more than five (5) individuals, as is determined from time to time by the members. Each member of the Board of Directors shall be either the Owner of a Dwelling Unit, have an interest therein, or in the event of a corporate ownership, be an officer or designated agent thereof.

(B) Election of Directors shall be conducted in the following manner:

(1) Members of the Board of Directors shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association.

(2) Vacancies in the Board of Directors may be filled, for the unexpired term until the date of the next annual members' meeting, by the remaining Directors.

(3) Anything herein contained to the contrary notwithstanding, during the conversion period and for so long as the DEVELOPER (or its successor in interest to the rights of Developer under this Declaration) owns not less than ten (10%) *per cent.* of the authorized dwelling units, it shall elect a majority of the Directors. Thereafter, for such period of time as Developer (or its successor in interest to the rights of Developer under this Declaration) owns at least five (5) Dwelling Units, the Developer shall be entitled to at least one seat on the Board of Directors.

(C) The term of each Director's service shall be one year, and each Director's term shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he may be removed in the manner elsewhere provided.

(D) The organizational meeting of the first elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they are elected, and no further notice shall be necessary providing a quorum shall be present.

(E) Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time, by a majority of the Directors. Written "Notice" of regular meetings (which notice shall state the time, place and purpose of the meeting) shall be given to each Director, personally or by U. S. Mail, telephone, telefacsimile, email, or telegraph or hand delivery at least three (3) days prior to the day named for such meetings unless such notice is waived.

(F) Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of at least one-half of the votes of the Board. Written "Notice" of regular meetings (which notice shall state the time, place and purpose of the

FOX RUN Condominium Association
By-laws, page 4.

meeting) shall be given to each Director, personally or by U. S. Mail, telephone, telefacsimile, email, or telegraph or hand delivery at least three (3) days prior to the day named for such meetings unless such notice is waived.

(G) Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the receipt of proper notice in due course

(H) A quorum at Directors' meetings shall consist of a majority of the entire Board. An act of the Board approved by a majority of votes present at a meeting at which a quorum is present shall constitute the act of the entire Board of Directors as specifically otherwise provided in the Declaration of Condominium. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum may be obtained. At an adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring on the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

(I) The presiding officer of Directors' meetings shall be the Chairman of the Board if such officer has been elected; and if none, then the President shall preside. In the absence of the presiding officer the Directors present shall designate one of their number to preside by majority election.

(J) Directors' fees, if any, shall be determined by members of the Association.

(K) All of the powers and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles of Association/Incorporation of the Association, and the documents establishing the condominium. Such powers and duties of the Directors shall be exercised in accordance with the provisions of the Declaration of Condominium which governs the use of the land, and shall include but shall not be limited to the following:

- (1) To make and collect assessments against members to defray the costs of the condominium.
- (2) To use the proceeds of assessments in the exercise of its powers and duties,
- (3) To maintain, repair, replace and operate the condominium property.
- (4) To reconstruct improvements after casualty, and the further improvement of the property.
- (5) To make and amend regulations respecting the use of the property in the condominium.
- (6) To enforce by legal means the provisions of the Condominium Documents, the

FOX RUN Condominium Association
By-laws, page 5.

Articles of Association/Incorporation, the By-Laws of the Association, and the Regulations for the use of the property in the Condominium.

- (7) To contract for management of the condominium and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the condominium documents to have approval of the Board of Directors or the membership of the Association. Any contracts for management of the Association shall be in writing and terminable for cause upon thirty (30) days advance notice, and will have a term of not less than one (1) year nor more than three (3) years in duration, and be renewable by agreement of the Association and the other party. No contracts for management or services required for proper administration of the purposes of the Association negotiated by the Developer will exceed one (1) year in term, commencing from the date the first Dwelling Unit is conveyed.
- (8) To pay taxes and assessments which are liens against any part of the condominium other than individual Dwelling Units and the appurtenances thereto, and to assess the same against the apartment subject to such liens.
- (9) To obtain and carry insurance for the protection of Dwelling Unit Owners and the Association against casualty and liabilities.
- (10) To pay the cost of all power, water, sewer and other utility services rendered in the condominium and not billed to owners of individual Dwelling Units.
- (11) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association.

IV. Officers.

(A) The executive officers of the Association shall be a President, who shall be a Director, a Vice-President, who shall be a Director, a Treasurer, a Secretary and an Assistant Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

(B) The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the President of an association, including, but not limited to the power to appoint committees from among the members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association.

(C) The Vice President shall in the absence or disability of the President

FOX RUN Condominium Association
By-laws, page 6.

exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

(D) The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an association and as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

(E) The Treasurer shall have custody of all property of the Association, including funds, securities and evidence of indebtedness. He shall keep the assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of Treasurer.

(F) The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the contracting with the Directors for the management of the condominium.

V. Removal of Directors and Officers.

(A) **Removal of Directors.** At a regular meeting, or special meeting duly called for such purpose, any Director may be removed with or without cause by the affirmative vote of the majority of the Dwelling Unit Owners of record and a successor may then and there be elected to fill the vacancy thus created. If no such successor is thereupon elected by the Dwelling Unit Owners, the vacancy so created may be filled by the Board of Directors at its next regularly scheduled meeting. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting prior to any vote. The term of any Director who becomes more than sixty (60) days delinquent in payment of any assessment or related charges due the Association shall be automatically terminated without the necessity of a vote or of notice, and the remaining Directors shall appoint his successor as otherwise provided.

(B) **Removal of Officers.** Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

VI. Fiscal Management. The provisions for fiscal management of the association as set forth in the Declaration of Condominium shall be supplemented by the following provisions:

(A) **Assessment rolls.** The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each dwelling unit. Such an account shall

FOX RUN Condominium Association
By-laws, page 7.

designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due upon assessments.

(B) Budget.

(1) The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to the following items:

(a) Common Expenses Budget, including maintenance and operation of common elements, landscaping (office, shop, driveways, parking areas and walkways), utility services, casualty insurance, liability insurance, administration and all applicable taxes; and

(b) Proposed assessments against each member.

(2) Copies of the proposed budget and proposed assessments shall be transmitted to each member on or before January 1st of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each member concerned.

(C) Depository. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

(D) Fidelity bonds shall be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least 150% of the amount of the total annual operating expenses, including reserves. The cost or premiums of the various fidelity bonds shall be paid by the Association.

VII. Parliamentary Rules: Roberts Rules of Order (latest edition) shall govern the conduct of Association proceedings when not in conflict with the Articles of Association/Incorporation and By-Laws of the Association or with the Statutes of the State of Texas.

VIII. Amendments: Amendments to the By-Laws shall be proposed and adopted in the following manner:

(A) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

FOX RUN Condominium Association
By-laws, page 8.

(B) A resolution adopting a proposed amendment must receive approval of two-thirds of the votes of the entire membership of the Board of Directors and 75% of the votes of the entire membership of the Association. Directors and members not present at the meetings considering the amendment may express their approval in writing.

(C) Initiation: An amendment may be proposed by either the Board of Directors or by the membership of the Association, and after being proposed and approved by one of such bodies, it must be approved by the other.

(D) An amendment when adopted, shall become effective upon the date set forth in the adopting resolution. These By-laws and future amendments need not be recorded in the Office where is filed the Condominium Declaration for FOX RUN Condominiums, except as required by law from time to time.

(E) These By-Laws shall be amended from time to time, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium. These By-Laws shall be subordinate to the rules and provisions of the Declaration of Condominium.

[end]

Adopted and signed this, the 1st day of June, 2003.

FOX RUN CONDOMINIUM ASSOCIATION

By: s/ Jonathan C. Harris
Incorporator

Exhibit F to Condominium Declaration

FOX RUN Condominiums

College Station, Texas

- Condominium Information Statement -

Date: July 1, 2003

To comply with the Texas Uniform Condominium Act, the Owner **HiHo Developers, Ltd.** (a Texas Limited Partnership) also called Declarant and Developer, furnishes the following information about **FOX RUN Condominiums** in College Station, Brazos County, Texas. Prior to the expiration of the SIXTH (6th) day following a purchaser's receipt of the information and documents required by law as set forth in or attached to this CONDOMINIUM INFORMATION STATEMENT a purchaser of a unit may cancel any agreement for purchase of such unit from the Condominium Owner.

(1) Owner: **HiHo Developers, Ltd.**, 12030 Lakeland Park Blvd., Suite 101, Baton Rouge, LA 70809.
FOX RUN Condominiums, 801 Luther Street West, College Station, TX 77840.

(2) General Description: The CONDOMINIUM is a new development limited to residential use and occupies a nine acre land site which presently includes five (5) two and one-half story, free-standing, multifamily, residential structures. Each structure contains eight (8) residential Units (four upper 3 BR units and four lower 2 BR units), each unit having a separate entry door for its exclusive use on ground level which opens to the common area adjacent to automobile parking. The five structures now in place represent **Phase I** of the Condominium with a total Community of **forty (40)** Units.

The Condominium includes surrounding paved vehicular parking areas and paved driveways and walkways, swimming pool and recreation area, and landscaped spaces, as well as building sites for the future erection of eleven identical buildings, some of which are presently under construction. The Condominium will be enclosed within a perimeter security fence with resident-controlled gated access for vehicles and pedestrians from Luther Street. The land and buildings and other improvements are to be held in equal undivided common ownership by the owners of the Units. Each residential unit is assigned open-air parking spaces in the common parking areas, which are assigned to Units at the ratio of one parking space per bedroom. There are additional guest spaces for the common use of the Units.

The land of **Fox Run Condominium** is situated in Brazos County of the state of Texas, being a tract of land surveyed as 9.184 acres (400,074 sq. ft.) designated as "**Lot 3A**" of Block "**1**" of **Melrose Subdivision** of the city of College Station which is a tract created out of the resubdivision (replat) of former Lots 1, 2 & 3 of Block "**1**" of **Melrose Subdivision**, as created and designated by the official resubdivision plat recorded in Volume 3020 at page 89 of the official land records of Brazos County of the state of Texas. Said "**Lot 3A**" is more fully described by the Site Plan dated 11 June, 2003, under signature of Joseph P. Schultz, P.E., No. 65889, which is attached as "**Exhibit A**," to the **CONDOMINIUM DECLARATION** filed with the Clerk of Brazos County for recordation in the real property records of the County.

Condominium Information Statement, page two
FOX RUN CONDOMINIUMS, College Station

- (3) Additional units: There can be a maximum of one hundred and twenty-eight (128) Units created in this Condominium (Phases I & II). There will be a minimum of forty (40) Units in the Condominium, **Phase I**, which includes the five (5) structures containing eight (8) Units each, being those structures labeled as "1, 2, 5, 6 and 7", on the Site Plan attached to the Condominium Declaration. Additional projected buildings and units, **Phase II**, will include eleven (11) additional structures containing up to eight (8) Units each which may be created by the Owner on the land of the condominium as indicated by the Site Plan attached to the Condominium Declaration. The projected eleven structures are labeled "3, 4, and 8-16" on the Site Plan. All structures will be essentially identical in design and construction and appearance. The buildings and other improvements of Phase II will be completed during an unspecified time in the future, but within ten (10) years of June 1, 2003. The Developer may thus create a total of sixteen (16) free-standing structures containing up to 128 Units in the Condominium. No other land can be included in the Condominium and no land can be removed from the project.
- (4) Reserved Development Rights: Developer reserves the exclusive right to use the land sites which are designated on the Site Plan as sites for buildings numbered "2, 3, 8-16" for the construction of the indicated multifamily residential structures containing up to eight (8) Units each for a period of ten (10) years from June 1, 2003. Developer also reserves rights of access across the Condominium lands to deliver and store material, to engage in the task of erecting the structures, and to undertake all functions necessary to create and complete and sell all units which Developer is permitted to create in the Condominium. Developer also reserves the exclusive right to use and restrict others from using all particular land sites designated as sites for construction of improvements, whether Units or common areas, during the time that construction is on-going for the improvement of those sites as contemplated by the Site Plan.
- (5) Condominium Declaration and related documents: A copy of the Condominium Declaration which creates and regulates the ownership of the Units of **Fox Run Condominiums** is attached.
- (6) Projected Budget: 2003-2004: A copy of the initial operating budget adopted by the Developer and the Fox Run Condominium Association is attached.
- (7) Description of encumbrances on ownership of condominium units: In addition to the detailed use restrictions and limitations affecting the Units of the Condominium which are created by the Condominium Declaration, there are certain other encumbrances affecting the land of the Condominium, for which see "Schedule B" of the title insurance policy which is attached to this Statement. In the opinion of the Developer, there are no encumbrances which adversely affect the land of the Condominium for its intended purposes. The Developer and the Condominium Association have undertaken a long-term lease agreement with the provider of the individual Unit security systems installed in each of the Units which obligates the Unit owners to pay a monthly security system monitoring fee of \$11.00 per month for a period of ten years, which fee is included in the monthly Condominium Fee collected by the Condominium Association..

Condominium Information Statement, page three
FOX RUN CONDOMINIUMS, College Station

(8) Warranties: The warranty which the Developer extends to 1st-time purchasers is in written form and is the only warranty, and a SAMPLE copy is attached to this Statement.

(9) Litigation/Claims: There is no pending litigation against the Developer related to the Condominium, nor are there any claims by third parties affecting the Condominium.

(10) Description of insurance coverage: The Condominium Association shall maintain hazard and general liability insurance in force at all times which covers the Condominium property outside of the Units. Unit owners are required to insure the interior space and contents of the Unit and the liability of the Unit owners for conduct within the Units. A fuller Statement is attached describing the insurance policies. Refer to the Declaration for details on use of insurance proceeds.

(11) Monthly condominium fee: The monthly condominium fee is set at \$150 per month per Unit during the first year of operation from July 2003 through June of 2004. There are no additional fees contemplated for the use of the common areas by the Unit owners.

(12) Proposed budget and monthly common expense assessments are attached.

Other points of interest:

The Condominium Owner **has not** granted a lease of any part of the condominium property to another, and holds no part of the condominium property as lessee from another, but holds same as owner, except for the security systems described in paragraph numbered "7," above.

Under the declaration, a Unit owner will have exclusive ownership of the space within each unit defined as the space between the interior of the unfinished surface of the floor and the interior unfinished surface of the ceiling and within (and including) the interior finished surfaces of the vertical walls.

The Condominium including the grounds, buildings, parking areas, driveways, walkways, and recreational areas will be managed, maintained and insured by a non-profit corporation (the "Association") whose members are the unit owners. The interior space and contents are to be exclusively maintained and insured by the unit owner. The unit owner's Association is Fox Run Condominium Association, a nonprofit corporation chartered by the state of TEXAS, operated by majority rule, one vote per unit. Nevertheless, the Association will be under the control of the Declarant (developing owner) until June 1, 2013, or until 75% of all projected and allowable units have been sold, whichever first occur.

The master contract for the installation and monitoring of individual Unit security systems was undertaken by the Developer and assumed by the Association. It requires the Association to pay a

Condominium Information Statement, page four
FOX RUN CONDOMINIUMS, College Station

a service fee of \$11.00 per month for security monitoring of each Unit for ten years from date of completion of each respective Unit. This contract is a lease which leaves the system provider as owner/lessor of the security system; however, the contract created a significant cost savings for the initial installation of the security systems, and that cost savings is reflected in the price of each Unit sold to the first purchaser. Moreover, it represents a long term savings to Unit owners for continued monitoring of the systems.

Copies of the following important documents are attached to this Statement:

Declaration of Condominium with its Exhibits, including:

Site Plans of buildings & improvements which are now & can be included in the
Condominium, Parking lot assignments, Unit locations
Floor-plans and **elevation plans** of the individual units (typical)

Articles of Incorporation of FOX RUN Condominium Association
Bylaws of the FOX RUN Condominium Association

The construction of a total of sixteen (16) buildings with eight (8) Units per building for a total of one hundred and twenty-eight (128) Units has been projected as maximum Unit development. The developer has no right to include a greater number of Buildings or Units in this Condominium, nor to add or remove land, to or from, the Condominium. The land is subject to non-invasive servitudes, easements, covenants, and encumbrances described by Title Insurance Policy No. 1343-33077 issued by Fidelity National Title Insurance Company through University Title Company as agent, effective February 12, 2003.

BY: HiHo Developers, Inc.
12030 Lakeland Park Blvd., Suite 101
Baton Rouge, LA 70809

Owner - FOX RUN Condominiums
801 Luther Street West
College Station, TX 77840.

July 1, 2003

s/ Jonathan C. Harris
Jonathan C. Harris, Condominium Counsel

Fox Run Condominiums
a development of
HiHo Developers, Ltd

LIMITED WARRANTY

ISSUED TO: _____

DATE OF CLOSING: _____, 200__

SUBJECT PROPERTY: UNIT _____ of **FOX RUN Condominiums, College Station, Texas**

NOTE: This Warranty gives you special legal rights and you may also have other rights which are controlled by Texas law.

Implied warranties, including but not limited to WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, and HABITABILITY, are limited to the warranty periods set out below. Texas law may not allow limitation on how long an implied warranty lasts, so the below limitations may not apply to you.

CONSEQUENTIAL AND INCIDENTAL DAMAGES, OTHER THAN THOSE FOR INJURY TO THE PERSON, ARE EXCLUDED. Texas law may not allow the exclusion or limitation of incidental or consequential damages, so the limitations or exclusions may not apply to you.

TERM The terms of the various coverages of the Warranty begin on the date which your Unit is deeded to you. That date is referred to in this Limited Warranty as the "Closing".

COVERAGE We warrant that: For a period of **one year** after Closing, the floors, ceilings, walls and other internal structural components of the Unit and the building containing the Unit which are not covered by other portions of this Limited Warranty will be free of defects in material or workmanship; For a period of one year after Closing, the plumbing, heating, and electrical wiring systems will be free of defects in materials or workmanship; For a period of 60 days after closing, the following items will be free of defects in materials or workmanship: doors (including hardware); windows; jalousies, electric switches, receptacles, and fixtures; caulking around exterior openings; plumbing fixtures; and cabinet work.

MANUFACTURER'S WARRANTIES We assign and pass through to you the manufacturer's warranties on all appliances and equipment. The following are examples of such appliances and equipment, though not every Unit includes all of these items and some Units may include appliances or equipment not in this list: refrigerator, cooking range, washing machine, dishwasher, garbage disposal, ventilating fan, air conditioning and heating system, clothes dryer.

EXCLUSIONS FROM COVERAGE We do **not** assume responsibility for any of the following, all of which are excluded from the coverage of this Limited Warranty:

- (1) Defects in appliances and pieces of equipment which are covered by manufacturer's warranties. (We have assigned these manufacturer's warranties to you, and you should follow the procedures in these warranties if defects appear in these items).

Fox Run Condominiums, LIMITED WARRANTY, page two.

- (2) Damage due to ordinary wear and tear, abusive use, or lack of proper maintenance of your Unit and its equipment.
- (3) Defects which are the result of characteristics common to the materials used, such as (but not limited to) warping and deflection of wood; fading, chalking, and cracking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks, and masonry; drying, shrinking and cracking of caulking and weather-stripping.
- (4) Work done by you or anyone else except us or our subcontractors.
- (5) Loss or injury due to the elements.
- (6) Conditions resulting from condensation on, or expansion or contraction of materials.
- (7) Consequential or incidental damages.
- (8) Dead or dying trees.
- (9) Any condition relating to or in any way resulting from the presence of mold, mildew, fungus, spores and chemicals.

NO OTHER WARRANTIES This Limited Warranty is the only express warranty we give. Implied warranties, including but not limited to warranties of merchantability, fitness for a particular purpose, and habitability, are limited to the warranty period set forth above.

CLAIMS PROCEDURE If a defect appears which you think is covered by this Limited Warranty, you must write a letter describing it to your Seller's office at the address appearing below. You must tell us in your letter what items are defective and on what day and the times during the day you will be present in the Unit, so that we may schedule service calls appropriately. If delay will cause damage (e.g., if a pipe burst) telephone us. Only emergency reports may be given by telephone.

REPAIRS Upon receipt of your written report of a defect, if the defective item is covered by this Limited Warranty, we will repair or replace it at no charge to you, within 60 days (longer if weather conditions, labor problems or material shortages cause delays). The work will be done by us or subcontractors chosen by us. The choice between repair and replacement is ours.

NON-TRANSFERABLE This limited Warranty is extended to you only as the first purchaser of the Unit. When you sell the Unit or move out of it, this Limited Warranty automatically terminates.

Address: **HiHo Developers, Ltd.**, 801 Luther Street West, College Station, Texas (TX 77840)
Tel. (979) 693-2999 or (866) 693-2999

HiHo Developers, Ltd.

By: _____

Title: _____

FOX RUN Condominiums

DESCRIPTION OF INSURANCE

Insurance represents the largest single expense which the Condominium Association will incur in any one year. The **FOX RUN Condominium Association** will obtain and maintain in force all risk hazard and commercial general liability insurance coverage with funds provided by the Association and paid by the unit owners as part of the monthly condominium fees. As insurance premiums are required to be paid in advance (usually on an annual basis for a 12 month period), the initial policy premium will be advanced in full by the Developer to the Association for the first policy year. Upon sale of a Unit the purchaser shall reimburse the Association *pro rata* for the advance premium payment made by the Association for the current year premium. The monthly condominium fee collected by the Association allocates a portion to the payment of insurance premiums, so the Association will have accumulated sufficient funds to pay the insurance premiums for the second and subsequent years as they come due without further assessment. The funds contributed by each Unit owner for future insurance premiums may be assigned (sold) to the credit of a purchaser of the Unit; however, contributed funds are not subject to refund to a Unit owner who sells his Unit, unless the unit purchaser pays such amount to the Association.

The policy is to be issued to **Fox Run Condominium Association** for the benefit of the Unit owners of the 40 Units (HiHo Developers, Ltd., initially and other owners subsequently) and must provide that each Unit owner is an insured person under the policy with respect to liability arising out of Unit ownership and common ownership. And the insurer must be able to provide certificates of insurance and mortgagee endorsements on the Dwelling Units. To the extent that coverage is reasonably available, the Association will obtain and maintain insurance contract(s) to insure and cover:

(a) all common (jointly owned) insurable property and elements against all risks of direct physical loss, including fire and extended coverage for replacement-cost (excluding interior improvements and the contents of unit-owners). The insured areas are: all grounds, drives and parking areas, lawn and landscaped areas, swimming pool and fences, the limited common areas around Units and the building structures, **inclusive** of the interior finished walls and floors and ceilings and the fixtures and built-in appliances of each Unit, but exclusive of the Unit space and contents and any unattached improvements.

(b) the Association and the Unit owners against general liability for death, bodily injury and property damage arising out of the use, ownership or maintenance of the common property and elements to the extent of \$1,000,000 of liability. The Association will use its best efforts to obtain a medical payments provision, if financially feasible and available.

Insurance (cont.)

To the extent that such provisions are reasonably available, the policies must provide that:

- (a) the insurer waives its rights of subrogation as to the Condominium Association and the Unit owners and their servants, agents and guests;
- (b) no action or omission of a Unit owner (unless within the scope of the Unit owner's authority on behalf of the Association) will void the policy or be a condition to recovery under the policy;
- (c) "other insurance" excludes a Unit owner's individual policy of casualty or liability insurance and that the Association's insurance policy provides "primary insurance"; and
- (d) the insurer cannot cancel or refuse to renew the policy less than thirty (30) days after written notice of proposed cancellation or nonrenewal has been mailed to the Association.; and the policies should provide that they cannot be cancelled, invalidated or suspended on account of the conduct of the Condominium Association or the Condominium Manager, without prior demand that the Association or Manager cure the conduct issue, and the Association will make every reasonable effort to obtain coverage in that scope..

The insurance will be provided initially by **Clarendon America Insurance Company** (rated "A" and Class IX by BEST), through agent: Arthur J. Gallagher of Louisiana, Inc., (Broussard, Bush & Hurst Division) 225 Highlandia Drive, Baton Rouge, LA 70810.

All Unit owners must obtain individual home-owner or landlord's liability coverage for their own liability exposure in the interior of their unit. The Association will obtain coverage only for the risks outside the Unit. Owners must also insure the contents of their units against loss. If feasible and economically advantageous for the Unit owners, the Association may obtain a unified insurance contract for owners' liability and interiors; and only by mutual agreement, the Association and unit owners may cooperatively obtain a unified insurance contract, if available.

Condominium Expenses

1. **Insurance:** Premiums for General liability insurance covering risks outside of the Units in all common areas of the condominium. Casualty insurance covering standard risks for all of the common areas of the condominium external to the Units and the interior surfaces and fixtures and built in appliances and systems of the Units.
2. **Water:** Cost associated with providing water for the landscape irrigation system and the swimming pool and any other common area water use.
3. **Pool maintenance:** Cost associated with retaining a swimming pool-maintenance service provider to maintain the pool water and all associated pool equipment.
4. **Garbage:** Costs for removal of garbage and maintenance of related equipment.
5. **Lighting services:** Electrical power to light common areas, driveways, parking
6. **Paving Maintenance:** Maintenance/repair of walkways, driveways, and vehicle parking areas (including striping and space numbering).
7. **Building maintenance:** Cleaning, painting, repairing of buildings and the planning/supervision of these projects.
8. **Pest Control:** Costs of periodic pest control service as needed (exterior only)
9. **Administration:** Billing, collecting and accounting for condominiums fees; payment of condominium expenses; maintaining records and associated communications with members.
10. **Accounting Services:** Costs associated with the hiring of a CPA to audit the records of the association and to provide monthly financial statements.
11. **Fiduciary Service:** Cost of managing the finances of the association and the "reserve fund" set aside for future maintenance/replacement.
12. **Management Fee:** Costs associated with fees payable to a management company selected to carry out the business of the Condominium Association.
13. **Grounds maintenance:** Costs associated with the hiring of appropriate company to perform mowing, edging, pruning, watering, fertilizing, planting, herbicidal treatments and general care of all green and planted areas and grounds.
14. **Gates:** Costs associated with repair and maintenance of electric gates and fences.
15. **Security:** Monthly fee of \$11.00 payable to Network Multifamily Security Corporation for monitored interior Unit security system.
16. **Legal:** Fees for the services of attorneys at law to render legal services to the Association in the administration of its affairs and governing the Condominium.

Monthly Condominium Fees have been set at \$150/ unit to pay the above described anticipated fees and expenses and accumulate a reserve for depreciation (replacement/repairs). Fees are payable by each Unit owner monthly in advance to Fox Run Condominium Association.

Filed for Record in:
BRAZOS COUNTY

On: Jul 18, 2003 at 04:13P

As a
Recordings

Document Number: 00822232

Amount 140.00

Receipt Number - 222374

By,
Flo Workman

Fox Run Condominium Association
Phase I (40 units)

- Initial Annual Budget -
(July 2003 - June 2004)

Income: Regular monthly condominium fees
(40 Units @ \$150/Unit)

\$ 6,000.00/month

Expense:

Water, Sewer & Garbage	1,200
Insurance (5 buildings, pool, grounds)	2,460
Security Lighting & Pool Electricity	400
Common Area Maintenance	1,200
Management Fee (\$10/unit - waived)	0 *
Monitored Unit Security Systems (\$11/unit)	440
Legal & Accounting	200
<u>monthly total</u>	<u>\$ 5,900</u>

Reserve - \$ 100

Annualized gross income of Phase I	\$72,000
Annualized expenses of Phase I	<u>70,800</u>
Surplus (reserve fund)	\$ 1,200

STATE OF TEXAS COUNTY OF
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the named records of:
BRAZOS COUNTY
as stamped hereon by me.

Jul 18, 2003

HONORABLE NAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

This budget has been prepared by HiHo Developers, Ltd., and is based upon actual facts and figures which are available to it at the time of preparation of this statement. The budget is premised upon the fact that the Condominium is entirely new and no real depreciation can be expected within the first five years. This budget is for the minimum Condominium size of forty Units. As additional Units are included in the Condominium over the next twelve months and thereafter, the benefits of economy of scale will be achieved to enlarge the contributions to (and spread the sharing of) some costs which will remain relatively static, thereby making more funds available for depreciation and replacement (reserve) without an increase in fees.

* The management fee will be waived during the first twelve months of operation of the Condominium, Phase I, from August 2003 through July 2004.