

**Windmill Farms  
Master Declaration**

C8167

**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS**

**WINDMILL FARMS  
KAUFMAN COUNTY, TEXAS**

THIS DECLARATION made this 25<sup>th</sup> day of MAY 2001, by Leman Development, Ltd., hereinafter called Declarant.

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of all or a portion of the real property described in Article 1, Section 2, of this Declaration; and

**WHEREAS**, Declarant desires to subject the real property described in Article 1, Section 2 hereof to the covenants, conditions, restrictions, assessments, charges and liens hereinafter set forth; and

**WHEREAS**, Windmill Farms Association, Inc. has been incorporated under the Laws of the State of Texas as a nonprofit corporation, and has been granted powers of administering and enforcing the said covenants, conditions, restrictions, assessments, charges and liens, and disbursing the assessments and charges hereinafter created;

**NOW THEREFORE**, Leman Development, Ltd., Declarant, declares that the real property described in Article 1, Section 2, and such additions thereto as may hereafter be made pursuant to Article 1, Section 3, hereof, is and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, assessments, charges and liens hereinafter set forth.

**ARTICLE 1  
GENERAL**

**Section 1. Definitions.**

The following words, when used in this Declaration, unless the context shall prohibit, shall have the following meanings:

a. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee of the Association.

b. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association.

c. "Association" shall mean and refer to the Windmill Farms Association, Inc., its successors and assigns.

d. "Board" shall mean and refer to the Board of Directors of the Association.

e. "Bylaws" shall mean and refer to the ByLaws of the Association.

f. "Commercial Property" shall mean and refer to any Lot used for purposes other than a single family residential dwelling and its accessory structures.

g. "Committee" shall mean and refer to the Architectural Control Committee of the Association.

h. "Common Areas" shall mean and refer to all real property (including the improvements thereto) owned by the Association or dedicated to the Association either by separate instrument or as shown on any recorded plat or its equivalent of the Property or any portion thereof filed or approved by Declarant.

i. "Declarant" shall mean and refer to Leman Development, Ltd., a Texas limited partnership, and its successors and assigns and shall include any person or entity to which Declarant may assign its rights and privileges, duties, and obligations hereunder, which are and shall be assignable.

j. "Declaration" shall mean and refer to this Master Declaration of Covenants Conditions and Restrictions for Windmill Farms.

k. "District" shall mean and refer to Kaufman County Development District #1 or Kaufman County Fresh Water Supply District #1, their successors or assigns.

l. "Improvement" or "Improvements" shall mean and refer to all buildings, and roofed structures, parking areas, fences, walls, hedges, mass plantings, driveways, swimming pools, changes in any exterior color or shape, and any new exterior construction or exterior improvement exceeding \$2,000.00 in cost which may not be included in any of the foregoing. It does not include garden shrub or tree replacements, or any other additional replacement or repair of any magnitude, which does not change exterior appearances. It does include both original improvements and all later changes and improvements.

m. "Lot" shall mean and refer to any plot of land shown on any recorded plat or its equivalent of the Property thereof filed or approved by Declarant.

n. "Members" shall mean and refer to Owners eligible to vote in Association elections.

o. "Owner" and "Owners" shall mean and refer to the owner or owners of record, whether one or more persons or entities, of any Lot, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation.

p. "Property" shall mean and refer to the real property (including Improvements) described in Section 2 of this Article, and additions thereto, as are subject to this Declaration or any supplementary declaration under the provisions of Section 3 of this Article.

q. "Residential Lot" shall mean and refer to a Lot platted for single family residential use as designated by Declarant.

r. "Telecommunications" shall mean the transmission, emission, or reception by wire, radio, optical or other electromagnetic systems, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received.

s. "Telecommunications Service" shall mean the offering of any telecommunications service for a fee and shall include, but not be limited to, the following specific services: telephone, broadcast, wireless, internet access, and cable TV.

t. "Utility" shall mean any person or entity that would be defined as a "utility" under the Texas Utilities Code, except for any person or entity whose primary business, or whose ultimate owner's primary business, is the provision of a Telecommunications Service.

u. "Utility Service" shall mean the offering of any utility service for a fee and shall include, but not be limited to, the following specific services: electrical power, natural gas, sanitation and water.

**Section 2. The Property.**

The real property covered by this Declaration is described in Exhibit "A" attached hereto and incorporated herein by reference. All of the Property and any right, title or interest therein shall be owned, held, leased, sold and/or conveyed by Declarant, and any subsequent owner of all or any part thereof,

subject to this Declaration and the covenants, restrictions, charges and liens set forth herein. The Property may be subject to supplementary declarations of covenants, conditions and restrictions by one or more other associations for purposes of establishing specific development guidelines.

**Section 3. Additions to Property Subject to Declaration.**

Additional property may become subject to this Declaration in the following manner.

a. **Supplementary Declarations.** Supplementary declarations shall be filed which contain covenants and restrictions to which the added property shall be subject. Such supplementary declarations may contain additions, deletions, and modifications from those contained in this Declaration as may be necessary to reflect the different character of the added property. In no event, however, shall such supplementary declaration revoke, modify or add to the covenants established by this Declaration, nor shall such supplementary declaration in any way change the provisions of Articles I, II, III, IV, VI, VII and VIII hereof.

b. **Merger or Consolidation.** Upon a merger or consolidation of the Association with another association, the Association's property, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property, rights, and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other property as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration pertaining to the Property except as hereinafter provided.

**Section 4. Binding Effect.**

The provisions of this Declaration are and shall be construed as covenants running with the Property and shall be binding upon Owners and tenants of the Property or any part thereof and shall inure to the benefit of the Owners. From and after the date this Declaration is recorded in the Real Property Records of Kaufman County, Texas, the Property, and each Lot, shall be owned, held, sold, transferred, mortgaged, conveyed, leased, demised and otherwise used, developed, encumbered or disposed of by Declarant and by any subsequent Owner or tenant thereof subject to the provisions of this Declaration.

**Section 5. Recordation.**

This Declaration shall be recorded in the Real Property Records of Kaufman County, Texas.

**ARTICLE 2  
ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS  
IN THE ASSOCIATION**

**Section 1. Authority.**

a. Control. The Association's rights, duties and obligations under this Declaration shall be administered by the Board, except for those matters specifically delegated to the Architectural Control Committee in this Declaration. The Board shall consist of three (3) individuals who shall be selected by the Declarant as long as the Declarant owns land within the Property. After Declarant no longer owns land within the Property, the Board shall be elected by the majority vote of Members voting in person or by proxy at a meeting duly called for the purpose of electing Board members. Upon Declarant no longer owning land within the Property, Board members shall be elected to serve two (2) year terms and shall be elected in staggered terms.

b. Powers and Duties of the Board. The Board shall have all authority to administer the Association, including, but not limited to the powers and duties contained in the Board By-Laws.

c. Liability Limitations. Neither any Owner nor the Board nor the directors (or any of them) nor the officers, agents or employees of the Association nor any other entity acting for or on behalf of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Owner, whether or not such other Owner was acting on behalf of the Association or otherwise. Neither the Declarant nor the Association, nor their directors, officers, agents or employees, shall be liable for any incidental or consequential damages for failure to inspect any premises, Improvements or portions thereof or for failure to repair or maintain the same. The Declarant or the Association shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, Improvements or portions thereof.

The members of the Board, the officers of the Association and the members of the Architectural Control Committee shall not be personally liable to the Owners or others for any mistake of judgment or for any acts or omissions made in good faith by such members or officers. Each member of the Board, officer of the Association and member of the Architectural Control Committee shall be indemnified by the Association

against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of his or her being or having been a member or an officer, or any settlement thereof, whether or not he or she is a member or an officer at the time such expenses and liabilities are incurred; provided that in the event of a settlement, the indemnification shall apply only if the Board approves such settlement and reimbursement.

The provisions of this Section 1.c. shall be liberally construed to limit the liability of, and for the benefit of, the Owners, the Board, the directors, officers, agents and employees of the Association, the Architectural Control Committee, Declarant and all other entities acting for or on behalf of the Association.

## **Section 2. Insurance, Repair and Restoration.**

a. Insurance. The Association may keep all insurable improvements and fixtures of the Common Areas insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the Owner and beneficiary of such insurance. The insurance coverage with respect to the Common Areas shall be written in the name of, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses included in the assessments made by the Association.

b. Damage to Common Areas. In the event of damage to or destruction of any part of the improvements to the Common Areas, the Association may repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a special assessment against all Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other assessments made against such Owner.

c. Review of Insurance Policies. All insurance policies may be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any

necessary repairs or replacement of the Common Areas which may have been damaged or destroyed. The Association may acquire liability insurance if deemed desirable by the Association. The Association shall be the insured party under the policy.

**Section 3. Reserve Funds.**

The Board may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses, and may establish separate, irrevocable trust accounts in order to demonstrate that the amounts deposited therein are capital contributions and not net income to the Association.

**Section 4. Membership.**

Each and every person, persons or legal entity who shall own any Lot, tract, or parcel of land in the Property, shall automatically be a Member of the Association, PROVIDED that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a Member.

**Section 5. Classes of Voting Members.**

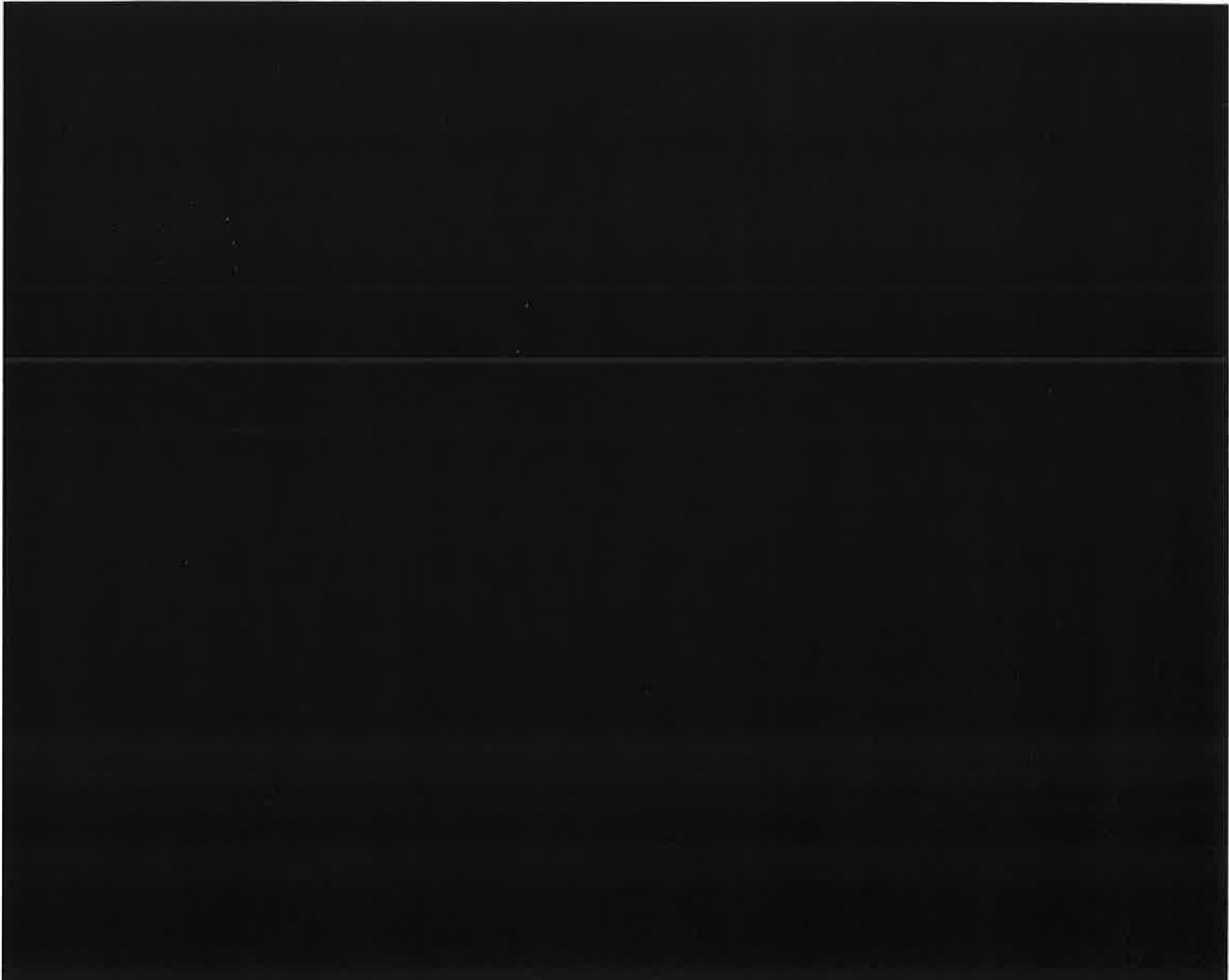
The Association shall have two classes of voting membership:

a. Class A Members. Class A Members shall be all those Members described in Section 4 of this Article with the exception of Declarant. Class A Members shall be entitled to one vote for each Residential Lot owned and one vote for each one thousand (1000) square feet of building located on Commercial Property. When two or more persons or entities hold undivided interests in a Lot, all such persons or entities shall be Class A Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot or one thousand (1000) square feet of building on Commercial Property in which such Members own undivided interests.

b. Class B Members. The Class B Member shall be the Declarant. The Class B Member shall be entitled to one hundred (100) votes for each Lot owned by it, one hundred (100) votes for each one thousand (1000) square feet of building located on Commercial Property owned by it, and one hundred (100) votes per acre of unplatted land owned or controlled by it.

**ARTICLE III  
ASSESSMENTS**





necessary fixtures and personal property related thereto, or for carrying out other purposes of the Association as stated in its Articles of Incorporation.

**Section 5. Vote Required for Increase in Rate of Annual Assessment.**

The Board may increase the rate of annual assessment up to ten (10) percent per year without a vote of the Members. An increase, greater than ten (10) percent, in the rate of the annual assessment, must be approved by a majority vote of Members as defined in Article II hereof, voting in person or by proxy, at a meeting duly called for such purpose. Notice of such meeting shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**Section 6. Vote Required for Special Assessment.**

The Special Assessment authorized by Section 4 of this Article must be approved by 60 percent of the Class A votes cast in person or by proxy, at a meeting duly called for such purpose, notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**Section 7. Commencement Date of Annual Assessment.**

The first annual assessment provided for herein shall commence with the year 2001 and shall continue thereafter from year to year.

**Section 8. Due Date of Assessments.**

The first annual assessment shall become due and payable on June 1, 2001, and shall be considered delinquent if not paid by June 30, 2001. The assessments for any year after 2001 shall become due and payable on January 1 of such year and delinquent if not paid by January 31 of such year. The due date and delinquent date of any special assessment under Section 4 of this Article shall be fixed in the resolution authorizing such assessment.

**Section 9. Owner's Personal Obligation for Payment of Assessments.**

The annual and special assessments provided for herein shall be the personal and individual debt of the Owner of the property covered by such assessments. No Owner may exempt himself from liability for such assessments. In the event of default in the payment of any such assessment, the Owner of the Lot may be levied a penalty and may be obligated to pay interest on the amount of the assessment from the due date thereof, together with all costs and expenses, including attorneys' fees. The Board has the discretion to establish and adjust the penalty and interest described herein as it deems appropriate.

**Section 10. Assessment Lien and Foreclosure.**

All sums assessed in the manner provided in this Article but unpaid shall, together with any penalty and/or interest as provided in Section 9 of this Article and the cost of collection, including attorney's fees as hereinafter provided, thereupon become a continuing lien and charge on the property covered by such assessment, which shall bind such property in the hands of the Owner, and his or her heirs, devisees, personal representatives, and assigns. The aforesaid lien shall be superior to all other liens and charges against the said property, except only for tax liens, liens or assessments levied by the District, and sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement of the property in question. The Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Association. To evidence the aforesaid assessment lien, the Association shall prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the owner of the property covered by such lien and a description of the property. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Kaufman County, Texas. Such lien for payment of assessments shall attach with the priority above set forth from the date that such payment becomes delinquent as set forth in Section 8 above and may be enforced by the foreclosure of the defaulting Owner's property by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above, or the Association may institute suit against the Owner personally obligated to pay the assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial as permitted in Chapter 51 of the Texas Property Code or any successor to that statute, the Owner shall be required to pay the costs, expenses and reasonable attorneys fees incurred. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee holding a prior lien on any Lot, the Association shall report to said mortgagee any unpaid assessments remaining unpaid for longer than sixty (60) days after the same are due.

**Section 11. Common Areas Exempt.**

All Common Areas as defined in Article I, Section 1 hereof, and any common areas of any other association designated on any recorded plat filed by Declarant, and all portions of the Property owned by or otherwise dedicated to any political subdivision, shall be exempted from the assessments and lien created herein.

**Section 12. Declarant Property Exempt.**

All property owned by Declarant shall be exempted from the assessments and liens created herein.

**ARTICLE IV  
ARCHITECTURAL CONTROL COMMITTEE**

**Section 1. Designation of Architectural Control Committee.**

The Association shall have an Architectural Control Committee, which shall consist of three (3) members who shall be appointed by the Declarant until the Declarant no longer owns any land within the Property. After the Declarant no longer owns any land within the Property, the Board shall have the exclusive right and power at any time and from time to time to create and fill vacancies on the Committee. Any and all members of such Committee may be removed by the Declarant without cause.

**Section 2. Function of Architectural Control Committee.**

No Improvement shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of the Property until plans and specifications, in such form and detail as the Committee may deem necessary, shall have been submitted to and approved in writing by such committee. The Committee shall have the power to employ professional consultants to assist it in discharging its duties and shall have the authority to levy a fee for architectural and engineering review. The Committee may designate one of its members to take any action or perform any duties for and on behalf of the Committee. The decision of the Committee or its designee shall be final, conclusive, and binding upon the applicant, Owner, its successors and assigns, and its designated representatives.

**Section 3. Content of Plans and Specifications and Submittal Procedures.**

**Submission Documents.** Owners, or their designated representatives, shall submit detailed information in writing regarding the proposed use of a Lot, including copies of all permits, or applications for permits, and any other plans, drawings or similar materials submitted for governmental approval and three (3) complete sets of construction plans, drawings, and specifications showing or stating all aspects of the proposed development, including, without limitation, the following:

- a. location of all structures, easements, street rights-of-way and setback lines;
- b. location of all walkways, driveways and curb lines;
- c. all landscaping, including location, height, spread, type and number of trees and shrubs and location and type of all ground cover and lawn material, and also including the type and location of all existing plant material on the Lot;

- d. location, height, intensity and fixture type of all exterior lighting;
- e. location, size and type of all pipes, lines, conduits and appurtenant equipment and facilities for any Telecommunications Service or Utility Services;
- f. location, size and type of all fencing;
- g. architectural floor plans, building elevations, wall sections and details of each building, including equipment located on the exterior of the building and the proposed method of screening such equipment;
- h. building materials and color information, including samples; and,
- i. site coverage data and calculations.

**Section 4. Preliminary Submittal.**

Owners, or their designated representatives, may submit the information required above in preliminary form for preliminary review by the Committee prior to producing the final documents. Such preliminary review will in no way replace the Owner's obligation to submit the detailed information required above and to obtain approval thereof.

**Section 5. Scale and Detail.**

All architectural plans and construction drawings submitted shall be to a scale of not less than one inch (1") equal to sixteen feet (16'). All site plans submitted shall be to scale of not less than one inch (1") equal to fifty feet (50').

**Section 6. No Use Prior to Approval.**

No Improvement of any kind shall be commenced, installed, erected, placed, assembled, altered, moved onto or permitted to remain on any Lot, nor shall any use be commenced on any Lot, unless and until the plans, drawings and specifications for the Improvement (including a description of the proposed use) have been approved in writing by the Committee in accordance with this Article IV; provided, an Owner may commence earth moving and grading operations for an Improvement prior to obtaining final approval of all plans and specifications for the Improvement if the Owner obtains approval of his or her grading plans from the Committee and the Committee authorizes commencement of the grading operations based on its approval of the grading plans. If the Committee allows early commencement of grading, the Owner shall not proceed beyond grading operations until the Owner receives final

approval of his or her plans and specifications for the Improvement from the Committee.

**Section 7. Changes.**

No construction or use that is inconsistent with, in addition to or materially different from any previously approved plans, drawings, and specifications shall be commenced or permitted until revised construction drawings and specifications reflecting such change or addition have been approved in accordance with this Article IV.

**Section 8. Approval or Disapproval.**

Approval of plans and specifications shall be based, among other things, on general adequacy of dimensions, harmony of the exterior design and of location with neighboring structures and Lots, relation of finished grades and elevations to neighboring Lots, and conformity to both the specific and general intent of the restrictions, conditions, covenants, development standards and other provisions set forth herein, and the Declarant's Master Development Plan for the Property. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance. Disapproval may also be based upon failure of such plans and specifications to comply with any requirement of this Declaration or because of failure to include therein any additional information reasonably requested by the Committee.

**Section 9. Design Guidelines.**

The Committee may develop guidelines ("Design Guidelines") which describe recommended design practices and issues that are of special concern to the Committee. Such Design Guidelines are intended to assist the applicant in preparing drawings and specifications that will be acceptable to the Committee. The Design Guidelines need not be uniform for all Lots, and may be amended or waived by the Committee from time to time.

**Section 10. Failure of the Committee to Act.**

The Committee should review all plans and specifications within fifteen (15) days of receipt of such plans and specifications. If, due to the volume of plans submitted or the complexity of a project, the Committee cannot review the plans and specifications within fifteen (15) days, the Committee may advise the applicant in writing of the time frame for review. In no event, shall the review period exceed forty-five (45) days unless agreed in writing by the Committee and the applicant. If the Committee fails to approve or to disapprove any such plans and specifications, or to reject same as being inadequate, or to advise the applicant of a revised review period, within

fifteen (15) days after submittal thereof, it shall be conclusively presumed that the Committee has approved such plans and specifications, EXCEPT that the Committee has no right or power, either by action or failure to act, to waive or grant any variances specifically reserved to Declarant in Article V hereof. The applicant shall have the burden of providing evidence of the submission date.

**Section 12. Limitation of Liability.**

Neither the Declarant, the Board, the Association, the Committee nor any of the members of such committee shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner of land or a Lot affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

**Section 13. Appeal to Board.**

After such time as Declarant no longer owns any land within the Property, any action of the Committee may be appealed to the Board. The decision of the Board shall be final, conclusive and binding upon the applicant.

**Section 14. Liability for Violation.**

Any person, firm or corporation violating this Article IV shall be liable for all costs incurred in remedying such violations, including, but not limited to, attorney's fees and court costs.

**Section 15. Fees.**

It is understood that all grading, drainage, Telecommunications Service and Utility Service plans submitted to the Committee for approval may be reviewed by a licensed engineer selected by the Committee in an attempt to verify that said plans will conform with Declarant's overall plan for the Property. All costs and fees estimated to be incurred by the Committee in conjunction with engineering and architectural plan review shall be paid in advance by the party submitting said plans. In the event any party submitting plans and specifications to the Committee for review hereunder fails to pay the estimated amount of such fees in advance, it shall be deemed for all purposes of this Article IV that such plans and specifications have not been submitted to the Committee. If the actual fees of the engineer exceed the estimated fees, the party submitting the plans and specifications shall pay the amount of the excess to the Committee within ten (10) days after receipt of an invoice showing the excess amount.

**ARTICLE V  
PROTECTIVE COVENANTS**

**Section 1. Protective Covenants.**

The Property and each Lot situated therein shall be constructed, developed, occupied and used in accordance with the following protective covenants:

a. Signs. No sign or signs shall be erected until such sign has been approved by the Architectural Control Committee. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. All signs are to be in compliance with the sign regulations of the appropriate governmental jurisdictions. The Association shall have the right, but not the obligation, to remove signs that detract from the overall integrity of the development of the Property.

b. Weeds and trash. The Owner of each Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner. If, at any time, an Owner of any Lot shall fail to control weeds, grass and/or other unsightly growth, or permit accumulation of garbage, trash or rubbish, the Declarant or Architectural Control Committee shall have the authority and right to go onto said Lot for the purpose of mowing or cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a reasonable sum for mowing or cleaning said Lot on each successive occasion of such mowing or cleaning. Any such assessment, together with interest thereon at the highest lawful rate and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment, together with the interest thereon and cost of collection thereof, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the assessment occurred. Each and every Owner of any Lot, by the acceptance of a deed or other conveyance of such Lot, shall thereby covenant and agree to pay such assessments. The lien securing any such assessment shall be subordinate and inferior to the lien of any mortgage and any renewals or extensions thereof existing prior to the assessment date.

c. Noxious or offensive activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done



thereon which may be or may become an annoyance or nuisance to any neighbor or the neighborhood.

d. Maintenance of parkways. The Owners shall be responsible for the maintenance of parkways located between their lot lines and the streets on which their Lots face or side. The Owners thereof shall likewise maintain the exterior of all structures on their Lot and their yards, hedges, plants and shrubs in a neat and trim condition at all times.

e. Nuisances. Nothing shall be done on any Lot which may be or become an annoyance or nuisance to any neighbor or the neighborhood.

f. Exterior lighting. No exterior light shall be installed or maintained on any Lot which light is found to be objectionable by the Association. Upon being given notice by the Association that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or have it shielded in such a way that it is no longer objectionable.

g. Drilling, excavation. No oil drilling, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. Water drilling or development operations may be authorized only upon written permission from the Board.

## Section 2. Breach of Protective Covenants or Declaration Provisions.

In the event of a violation or breach of any of these restrictions or any provision contained in this Declaration, by any person or concern, Declarant, the Board, and/or the Association, through their duly designated representatives, and the Owners, or any of them, jointly or severally, shall have the right, but not the obligation, to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of any of them. In addition to the foregoing right, Declarant, the Board, and/or the Association, through their duly designated representatives, shall have the right, but not the obligation, whenever there shall have been built on any Lot any structure which is in violation of these restrictions, to enter upon the Lot where such violation exists and summarily abate or remove the same at the expense of the Owner, and such entry and abatement shall not be considered a trespass. The Board may establish a system of fines for violation of the provisions of these restrictions or any provision in this Declaration. Following

publication of the fine schedule at a duly called meeting of the Members, the Board may impose such fines on any Member, who following notice of a violation, is in default of any provision contained in this Declaration as it now exists or may be amended in the future and such fine may be collected in accordance herewith.

## ARTICLE VI COMMON AREAS

### Section 1. Easements of Enjoyment.

Subject to the provisions of Sections 2, 3 and 4 of this Article, every Member of the Association shall have a right and easement of enjoyment in and to the Common Areas.

### Section 2. Easements Reserved by Declarant.

a. Easements for Sidewalks and Facilities. Easements for the installation, maintenance, repair and removal of sidewalks, Utility Service facilities, Telecommunications Service facilities, and drainage facilities are reserved by Declarant over, under and across the Property, including the Common Areas; provided, however, that such easements shall not interfere with the operation of any Improvements completed or being constructed on any Lot. Full right of ingress and egress is reserved by Declarant at all times over the Property for the installation, operation, maintenance, repair or removal of any sidewalk, Utility Service facility, Telecommunications facility, or drainage facility together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such sidewalk, Utility Service facility, Telecommunications Service facility, or drainage facility.

b. Exclusive Easements. Exclusive easements for the benefit of Declarant are reserved in the designated setback areas between the building lines and the exterior boundaries of individual Lots as may be necessary or convenient for the purpose of erecting, constructing, maintaining and operating any Utility Service or Telecommunications Service over, across, under and through the Property (including but not limited to wiring, conduits or lighting, power and telephone lines, communication equipment, gas lines, sanitary sewer, storm sewer and water). Said easements shall be assigned to the Association and to any appropriate public agencies, Utility or Telecommunications Service provider as the Declarant may direct. No buildings may be located upon said easement but, subject to this Declaration, landscaping, parking, lighting, sidewalks, and access drives may be located thereon.

c. Perpetual Easement. Declarant reserves a perpetual easement for the benefit of Declarant and the Association over and across those portions of the Property to which Declarant or the Association reasonably require access: (i) to install and maintain landscaping within or adjacent to portions of any streets or other rights-of-way through or directly serving the Property (provided, however that such landscape easement shall in no way create an obligation on the part of Declarant or the Association to install or maintain such landscaping), and (ii) to maintain and repair the Common Areas.

d. Right to Assign. Declarant shall have the right, at any time and from time to time to assign, convey and transfer in whole or in part the easements and rights reserved under the provisions of this Article VI.2., and to designate and limit the location of any such easements, and shall have the right to record in the Real Property Records of Kaufman County any instruments or documents evidencing such easement and rights as Declarant deems necessary; and each Owner of any Lot agrees to execute, acknowledge and deliver to Declarant, or its assigns, at no cost to such Owner, any such instruments or documents as Declarant may so require relating to the easements reserved herein.

### Section 3. Title to Common Areas.

Declarant shall convey Ownership of the Common Areas to the Association which shall be responsible for their operation and maintenance, after their designation as such in accordance with Article 1, Section 1 above.

### Section 4. Extent of Easements.

The rights and easements of enjoyment created hereby shall be subject to the following:

a. The right of the Declarant and Association to prescribe rules and regulations for the use, enjoyment, and maintenance of the Common Areas;

b. The right of the Association to sell and convey the Common Areas, or any part thereof, provided such sale or conveyance is approved by a majority of the total votes of the Members of the Association as defined in Article II hereof, voting in person or by proxy, at a meeting duly called for such purpose, notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting;

c. The right of the Association to borrow money for the purpose of improving the Common Areas, or any part thereof, and to mortgage the Common Areas, or any part thereof;

d. The right of the Association to take such steps as are reasonably necessary to protect the Common Areas, or any part thereof, against foreclosure;

e. The right of the Association to suspend the easements of enjoyment of any Member of the Association during which time any assessment levied under Article III hereof remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations or during the period in which any Owner remains in violation of any provision of this Declaration, or as it may be amended.

## ARTICLE VII UTILITY EASEMENTS

### Section 1. Easements.

If Declarant grants any easement reserved to it under Article VI, Section 2 herein for the provision of a Telecommunications Service ("Telecommunications Easement") or for the provision of a Utility Service ("Utility Easement"), such easement may

a. Be designated specifically as a Telecommunications Easement or as a Utility Easement on the Plat for the Property and Declarant shall have the right to record in the Real Property Records of Kaufman County any instruments or documents evidencing such easement and rights as Declarant deems necessary.

b. Any Utility Service provider granted a Utility Easement or any Telecommunications Service provider granted a Telecommunications Easement shall have the right to remove and keep off all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system on any of the easement strips. Any Utility or Telecommunications Service provider granted an easement hereunder shall, at all times, have the right of egress and ingress to and from and upon said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or any part of its respective system with the necessity at any time of procuring the permission of anyone.

## ARTICLE VIII MISCELLANEOUS PROVISIONS

### Section 1. Duration.

This Declaration and the covenants, conditions, restrictions, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association, and every Owner of any part of the Property, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including December 31, 2050, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless a change (the word "change" including additions, deletions or modifications thereto, in whole or in part) is approved by a majority of the total votes cast in person or by proxy at a meeting duly called for such purpose, notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of such meeting; PROVIDED, HOWEVER, that no such change shall be effective until one (1) year following the vote referred to above, nor shall any such change be effective prior to the recording of a certified copy of such resolution in the Real Property Records of Kaufman County, Texas.

### **Section 2. Amendment.**

Article V of this Declaration may be amended or terminated at any time by the Declarant, at its sole discretion, as long as the Declarant owns land within the Property. After Declarant no longer owns land within the Property, Article V of this Declaration may be amended or terminated by sixty percent (60%) of the total votes cast in person or by proxy, with both classes of Members voting together, at a meeting duly called for such purpose. Notice of such meeting shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

All other Articles may only be amended or terminated by the Declarant as long as the Declarant owns land within the Property, thereafter all other Articles may be amended or terminated at any time by sixty percent (60%) of the total votes cast in person or by proxy, of the Members voting together. No amendment or termination may be voted on at a meeting until notice of such meeting and the purpose of such meeting shall have been given to all Members at least thirty (30) days in advance. Declarant must consent thereto if such amendment or termination is to be effective prior to Declarant no longer owning land within the Property. Any such amendment or termination shall become effective when an instrument is filed for record in the Real Property Records of Kaufman County, Texas, with the signatures of the requisite number of the Owners of the Property (and the signature of Declarant if Declarant still owns land within the Property).

### **Section 3. Indemnification.**

If the Association, the Declarant, or any of their agents, employees, or contractors, (i) causes any damage to the Common Areas or to any Lot, or to any Improvements located thereon, or (ii) causes any injury to any person



Wherever notice to a Member (or Members) is permitted or required hereunder, such may be given by the mailing of such to the Member at the address of such Member appearing on the records of the Association, unless such Member has given written notice to the Association of a different address, in which event such notice shall be sent to the Member at the address so designated. In such event, such notice shall conclusively be deemed to have been given by the Association by placing same in the United States mail, properly addressed, whether received by the addressee or not. Unless written notice is required, notice may also be provided by publication in a newspaper, of general circulation within the Property, such newspaper to be designated by the Board; or by posting in a visible public location designated by the Board.

**Section 7. Titles.**

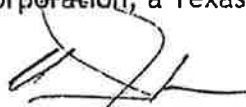
The titles, headings, and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

**EXECUTED** as of the day and year first written above.

Leman Development Ltd.,  
A Texas Limited Partnership

By: Windmill/Kaufman Ltd.,  
A Texas Limited Partnership,  
Sole General Partner

By: British American Development  
Corporation, a Texas Corporation

By:   
Henry W. Stewart, President  
General Partner

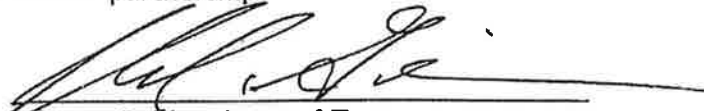
By: Siepiela Development Corp., a  
Texas Corporation

By:   
James A. Siepiela, President  
General Partner

State Of Texas §  
County Of Dallas §

This instrument was acknowledged before me on the 21<sup>st</sup> day of May, 2001, by HENRY W. STEWART, President of BRITISH AMERICAN DEVELOPMENT CORPORATION, a Texas corporation, General Partner of WINDMILL/KAUFMAN LTD., a Texas limited partnership.




  
Notary Public, State of Texas

State Of Texas §  
County Of Dallas §

This instrument was acknowledged before me on the 25<sup>th</sup> day of May, 2001, by JAMES A. SIEPIELA, President of SIEPIELA DEVELOPMENT CORP., a Texas corporation, General Partner of WINDMILL/KAUFMAN LTD., a Texas limited partnership.



  
Notary Public, State of Texas



## EXHIBIT "A"

TRACT I  
FIELD NOTES

BEING a tract of land situated in the S. Smith Survey, Abstract No. 450, the J.B. Davenport Survey, Abstract No. 132, the J. Heath Survey, Abstract No. 227, and the W. Boles Survey, Abstract No. 55, Kaufman County, Texas, and being part of that certain Tract No. 1 called 429.79 acres and Tract No. 2 called 471.242 acres, conveyed to N.B. Hunt by Emily R. Cartwright, Executrix and Trustee of the Estate and Trust of Matthew Cartwright and the American National Bank of Terrell, Texas, Executor and Trustee of said Estate and Trust, on December 15, 1967, and part of that certain called 549.05 acre tract conveyed to W.B. Hunt by Henry H. Dickerson, Jr. and John Shelly on October 15, 1968 and recorded in Volume 518, Page 429 of the Deed Records of Kaufman County, Texas, and being more particularly described as follows:

BEGINNING at a 10-inch fence corner post at the Southwest corner of the above mentioned 471.242 acre tract, said point being in the North right-of-way line of U.S. Highway No. 80;

THENCE North 45°08'31" West with the Southwest line of said 471.242 acre tract, a distance of 1738.04 feet to a point for corner at the West corner of same and being in the Southeast line of the above mentioned 429.79 acre tract;

THENCE South 44°49'43" West with the Southeast line of said 429.79 acre tract, a distance of 1442.86 feet to a point for corner at the South corner of same;

THENCE North 28°04'36" West, a distance of 954.06 feet to a point for corner;

THENCE North 11°48'55" West, a distance of 1166.08 feet to a point for corner;

THENCE North 15°29'29" West, a distance of 733.71 feet to a point for corner;

THENCE North 00°24'36" East, a distance of 897.84 feet to a point for corner;

THENCE South 83°47'31" East, a distance of 1099.32 feet to a point for corner;

THENCE South 80°08'47" East, a distance of 2842.52 feet to a point for corner;

THENCE South 21°54'02" East, a distance of 1386.24 feet to a point for corner;

THENCE South 45°08'31" East, a distance of 300.00 feet to a point for corner;

THENCE South 33°06'43" East, a distance of 2097.18 feet to a point for corner, said point being the North right-of-way line of said U. S. Highway No. 80;

THENCE North 88°30'09" West along said North right-of-way line, a distance of 2643.17 feet to the POINT OF BEGINNING and containing 13,770,425 square feet or 316.13 acres of land, more or less.



AFTER RECORDING RETURN TO:

Brenda N. McDonald  
270 N. Denton Tap Road  
Suite 100  
Coppell, Texas 75019

FILED FOR RECORD AT 11.06 O'CLOCK A 6-4- 2001 LAURA HUGHES  
CLERK COUNTY COURT KAUFMAN COUNTY TEXAS. BY LD DEPUTY