

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

*for*

**ELITE TOWNHOMES**

[Copyright © 2017 by Roberts Markel Weinberg Butler Hailey PC, all rights reserved. This Declaration may be used only in connection with Elite Townhomes Subdivision and the operation of Elite Townhomes Homeowners Association, Inc.]

RP-2017-459007

**TABLE OF CONTENTS**

<b>ARTICLE</b>		<b>PAGE</b>
<b>ARTICLE I - DEFINITIONS</b>	.....	<b>1</b>
Section 1.1	Architectural Control Committee .....	1
Section 1.2	Architectural Guidelines .....	1
Section 1.3	Association .....	2
Section 1.4	Board or Board of Directors .....	2
Section 1.5	Builder.....	2
Section 1.6	Bylaws.....	2
Section 1.7	Certificate of Formation.....	2
Section 1.8	Community Properties .....	2
Section 1.9	Declarant Control Period.....	2
Section 1.10	Improvement .....	2
Section 1.11	Lot or Lots .....	3
Section 1.12	Maintenance Fund .....	3
Section 1.13	Member or Members.....	3
Section 1.14	Mortgage .....	3
Section 1.15	Owner or Owners .....	3
Section 1.16	Party Wall.....	3
Section 1.17	Plans .....	3
Section 1.18	Plat or Plats .....	3
Section 1.19	Prevailing Community Standards .....	3
Section 1.20	Residential Dwelling .....	4
Section 1.21	Rules and Regulations .....	4
Section 1.22	Subdivision .....	4
Section 1.23	Utility Company or Utility Companies .....	4
<b>ARTICLE II - GENERAL PROVISIONS RELATING TO USE AND OCCUPANCY</b>	.....	<b>4</b>
Section 2.1	Use Restrictions .....	4
2.1.1	General .....	4
2.1.2	Single Family Residential Use.....	4
2.1.3	Nuisances.....	5
2.1.4	Trash Containers.....	5
2.1.5	Right to Inspect .....	6
2.1.6	Animals .....	6
2.1.7	Diseases and Insects.....	6
2.1.8	Subdivision and Consolidation of Lots .....	6
2.1.9	Signs.....	6
2.1.10	Clothes Drying.....	8
Section 2.2	Vehicles; Parking.....	8
2.2.1	Prohibited Vehicles; Covers Prohibited .....	8
2.2.2	Prohibited Parking - General.....	8
2.2.3	Repair, Rental or Sale of Vehicles Prohibited .....	8
2.2.4	Vehicle Defined.....	8
2.2.5	Presumptive Violations .....	8
2.2.6	Towing.....	9

RP-2017-459007

2.2.7	Limitation of Liability .....	9
Section 2.3	Permitted Buildings and Exterior Improvements.....	9
2.3.1	Types of Buildings.....	9
2.3.2	Temporary Structures.....	9
2.3.3	Garages and Garage Doors.....	9
2.3.4	Air Conditioners .....	10
2.3.5	Antennas, Satellite Dishes and Masts .....	10
2.3.6	Exterior Lighting.....	10
2.3.7	Mailboxes .....	11
2.3.8	Roofing .....	11
2.3.9	Window Treatments and Doors .....	11
2.3.10	Utility Meters and HVAC Equipment.....	11
2.3.11	Driveways and Sidewalks .....	11
2.3.12	Exterior Colors .....	11
2.3.13	Rain Barrels and Rain Harvesting Systems .....	12
2.3.14	Solar Energy Devices .....	13
2.3.15	Storm and Energy Efficient Shingles .....	14
2.3.16	Flags .....	15
2.3.17	Religious Items.....	16
2.3.18	Standby Electric Generator.....	17
2.3.19	Compliance with Architectural Guidelines .....	20
Section 2.4	Size and Location of Buildings and Structures.....	20
2.4.1	Minimum Allowable Area of Interior Living Space .....	20
2.4.2	Maximum Allowable Height of Buildings .....	20
2.4.3	Location of Residential Dwelling and Improvements	
	Front and Rear-Setbacks.....	20
2.4.4	Zero Lot Line Properties .....	21
Section 2.5	Walls and Fences.....	23
2.5.1	Architectural Control Committee Approval Required .....	23
2.5.2	General Requirements .....	23
2.5.3	Ownership and Maintenance .....	23
2.5.4	Perimeter Fencing.....	23
Section 2.6	Owners' Access Easement.....	24
2.6.1	Defined .....	24
2.6.2	Notice; Duration .....	24
2.6.3	Usage .....	24
2.6.4	Architectural Control Committee Approval of Access	
	Area Improvements .....	25
2.6.5	Restoration.....	25
2.6.6	Blanket Access Easement .....	25
Section 2.7	Governmental Functions, Utilities and Other Services.....	25
2.7.1	Governmental Functions; Removal of Obstructions.....	25
2.7.2	Other Easements.....	26
2.7.3	Easements Perpetual and Not Conveyed .....	26
2.7.4	Maintenance of Utilities Required.....	26
2.7.5	Private Utility Lines .....	26
2.7.6	Utility Easements.....	26
2.7.7	Gate Easements.....	27
Section 2.8	Community Properties .....	27
2.8.1	Community Properties .....	27
<b>ARTICLE III - MAINTENANCE .....</b>		<b>27</b>

Section 3.1	Association Maintenance Responsibilities .....	27
3.1.1	General .....	27
3.1.2	Facilities or Services .....	28
3.1.3	Owner’s Liability for Payment of Association Costs .....	28
Section 3.2	Owner Maintenance Responsibilities.....	28
3.2.1	General Maintenance.....	28
3.2.2	Residential Dwellings and Other Improvements.....	29
3.2.3	Walls .....	30
3.2.4	Utilities .....	30
3.2.5	Landscaping .....	31
3.2.6	Adjacent Lots.....	31
3.2.7	Right of Entry and Inspection; Owner’s Default .....	31
<b>ARTICLE IV - ARCHITECTURAL APPROVAL.....</b>		<b>31</b>
Section 4.1	Architectural Control Committee .....	31
Section 4.2	Approval of Improvements Required.....	32
Section 4.3	Address of Committee .....	33
Section 4.4	Architectural Guidelines .....	34
Section 4.5	Failure of Committee to Act on Plans .....	34
Section 4.6	Prosecution of Work After Approval.....	34
Section 4.7	No Implied Waiver or Estoppel .....	35
Section 4.8	Power to Grant Variances.....	35
Section 4.9	Compensation of Architectural Control Committee Members .....	35
Section 4.10	Estoppel Certificates.....	35
Section 4.11	Nonliability for Architectural Control Committee Action .....	36
Section 4.12	Construction Period Exception.....	36
Section 4.13	Subsurface Conditions .....	36
Section 4.14	Landscaping.....	36
<b>ARTICLE V - MANAGEMENT AND OPERATION OF SUBDIVISION .....</b>		<b>37</b>
Section 5.1	Non-Profit Corporation .....	37
Section 5.2	Management by Association.....	37
Section 5.3	Membership in Association .....	37
Section 5.4	Voting of Members .....	37
Section 5.5	Bylaws.....	38
Section 5.6	Professional Management .....	38
Section 5.7	Board Actions in Good Faith .....	38
Section 5.8	Standard of Conduct .....	38
Section 5.9	Implied Rights; Board Authority .....	39
<b>ARTICLE VI - MAINTENANCE EXPENSE CHARGE AND MAINTENANCE FUND .....</b>		<b>39</b>
Section 6.1	Creation of the Lien and Personal Obligation of Assessment .....	39
Section 6.2	Subordination of the Association’s Lien.....	40
Section 6.3	Purpose of Assessment .....	40
Section 6.4	Basis and Maximum Level of Annual Assessments.....	40
Section 6.5	Uniform Rate .....	41
Section 6.6	Date of Commencement and Determination of	

	Annual Maintenance Charge.....	41
Section 6.7	Special Assessments .....	41
Section 6.8	Capitalization Fee .....	41
Section 6.9	Effect of Nonpayment of Assessments .....	42
Section 6.10	Payment of Assessments by Declarant and Builders .....	42
Section 6.11	Administrative Fees and Resale Certificates.....	42
Section 6.12	Notice of Sums Owing.....	42
<b>ARTICLE VII - INDEMNITY; SECURITY; INSURANCE .....</b>		<b>43</b>
Section 7.1	Indemnity of Association .....	43
Section 7.2	Security .....	43
Section 7.3	Association Insurance .....	43
Section 7.4	Individual Insurance .....	44
<b>ARTICLE VIII - FIRE OR CASUALTY: REBUILDING .....</b>		<b>44</b>
Section 8.1	Rebuilding.....	44
<b>ARTICLE IX - AMENDMENT, DURATION, ANNEXATION AND MERGER .....</b>		<b>45</b>
Section 9.1	Amendment .....	45
Section 9.2	Duration.....	45
Section 9.3	Merger.....	45
Section 9.4	Annexation.....	46
Section 9.5	Deannexation of Land.....	46
<b>ARTICLE X - MISCELLANEOUS .....</b>		<b>46</b>
Section 10.1	Severability.....	46
Section 10.2	Number and Gender .....	46
Section 10.3	Articles and Sections .....	46
Section 10.4	Delay in Enforcement.....	46
Section 10.5	Limitation of Liability .....	46
Section 10.6	Enforceability.....	47
Section 10.7	Remedies .....	47
Section 10.8	Interpretation.....	47

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
*for*  
**ELITE TOWNHOMES**

---

THE STATE OF TEXAS       §  
  §  
COUNTY OF HARRIS       §

This Declaration of Covenants, Conditions and Restrictions for Elite Townhomes (the "**Declaration**") is made on the date hereinafter set forth by Elite Townhomes, LLC, a Texas limited liability company ("**Declarant**").

**WITNESSETH:**

WHEREAS, Declarant is the owner of the following real property located in Harris County, Texas;

Elite Townhomes LLC, a subdivision of in Harris County, Texas according to the map or plat thereof, recorded under Film Code No. 674029 of the Map Records of Harris County, Texas and all amendments or replats of said maps or plats, if any (such subdivision being commonly referred to as "**Elite Townhomes**");

and

WHEREAS, Declarant desires to establish and preserve a general and uniform plan for the improvement, development, sale and use of the Subdivision (as hereafter defined) for the benefit of the present and future owners of the Lots therein.

NOW, THEREFORE, Declarant hereby declares that the Subdivision will be held, transferred, sold, conveyed, occupied and enjoyed subject to the covenants, conditions, easements, charges, liens and restrictions hereinafter set forth in this Declaration.

**ARTICLE I**  
**Definitions**

As used in this Declaration, the terms set forth below have the following meanings:

**SECTION 1.1.       ARCHITECTURAL CONTROL COMMITTEE** - The Architectural Control Committee established and empowered in accordance with Article IV of this Declaration.

**SECTION 1.2.       ARCHITECTURAL GUIDELINES** - Guidelines established by Declarant for the purpose of outlining the minimum acceptable standards for a Residential Dwelling and related Improvements on a Lot. During the Declarant Control Period or as long

RP-2017-459007

as Declarant has architectural control authority over new Residential Dwelling construction, whichever is longer, Declarant has the authority to revise the Architectural Guidelines from time to time as deemed appropriate; provided that, any revisions to the Architectural Guidelines must be applied prospectively, not retroactively. Thereafter, the Board of Directors will have the authority to revise the Architectural Guidelines. In the event of any conflict between the Architectural Guidelines and the Declaration, the Declaration controls. However, the two (2) documents must be read together in an effort to avoid conflicts and harmonize all provisions.

**SECTION 1.3. ASSOCIATION** - Elite Townhomes Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

**SECTION 1.4. BOARD or BOARD OF DIRECTORS** - The Board of Directors of the Association.

**SECTION 1.5. BUILDER** - A person or entity other than Declarant who either purchases a Lot within the Subdivision for the purpose of constructing a Residential Dwelling thereon or is engaged by the Owner of a Lot within the Subdivision for the purpose of constructing a Residential Dwelling on the Owner's Lot.

**SECTION 1.6. BYLAWS** - The Bylaws of the Association.

**SECTION 1.7. CERTIFICATE OF FORMATION** - The Certificate of Formation of the Association.

**SECTION 1.8. COMMUNITY PROPERTIES** - All common areas so designated in this Declaration or by the Plat which are intended for the common use of Owners, including, without limitation (i) Restricted Reserves "A", "B", and "C" on the Plat; (ii) the private access easement identified as Markle Drive, the private access easement identified as Elite Drive, and the shared driveway identified on the Plat, sometimes collectively referred to as the "Private Drives", and (iii) all other properties, real or personal, conveyed to or dedicated to the use of, or otherwise acquired by the Association for the common use, enjoyment or benefit of, the Association, together with all Improvements thereon and appurtenances thereto.

**SECTION 1.9. DECLARANT CONTROL PERIOD** - The period of Declarant control of the Association during which Declarant may appoint and remove Board members and the officers of the Association, other than Board members elected by Owners other than Declarant, as provided in the Bylaws of the Association. The Declarant Control Period will exist for a period of ten (10) years from the date this Declaration is recorded in the Official Public Records of Real Property of Harris County, Texas, unless Declarant terminates the Declarant Control Period on an earlier date by an instrument duly executed by Declarant and recorded in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 1.10. IMPROVEMENT** - Any building (including a Residential Dwelling), structure, fixture, or fence, any transportable structure placed on a Lot, whether or

RP-2017-459007

not affixed to the land, and any addition to, or modification of an existing building structure, fixture or fence on a Lot.

**SECTION 1.11. LOT or LOTS** - Each of the lots shown on the Plat.

**SECTION 1.12. MAINTENANCE FUND** - The fund created by the payment of Assessments (as defined in Article VI below) and other sums by the Owners of Lots in the Subdivision, as provided for in this Declaration.

**SECTION 1.13. MEMBER or MEMBERS** - All Lot Owners who are members of the Association as provided in Article V hereof.

**SECTION 1.14. MORTGAGE** - A security interest, mortgage, deed of trust, or lien instrument granted by an Owner of a Lot to secure the payment of a loan made to such Owner, duly recorded in the Official Public Records of Real Property of Harris County, Texas, and creating a lien or security interest encumbering a Lot and some or all Improvements thereon.

**SECTION 1.15. OWNER or OWNERS** - Any person or persons, firm, corporation or other entity or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.

**SECTION 1.16. PARTY WALL** - A wall constructed on or adjacent to the common lot line for two (2) adjacent Lots which separates two (2) adjacent Townhouses while, at the same time, serving as a perimeter wall for each Townhouse.

**SECTION 1.17. PLANS** - The final construction plans and specifications (including a related site plan) of a Residential Dwelling or other Improvement of any kind to be erected, placed, constructed, maintained or altered on a Lot.

**SECTION 1.18. PLAT or PLATS** - The plat for the Subdivision recorded under Film Code No. 674029 of the Map Records of Harris County, Texas, the plat for any other land annexed and subjected to the terms of this Declaration and any replats thereof.

**SECTION 1.19. PREVAILING COMMUNITY STANDARDS** - Those standards of aesthetics, environment, appearance, color, architectural design and style, maintenance, conduct and usage generally prevailing in the Subdivision as reasonably determined by the Board at any given time, including as to each particular regulated modification and each other matter or circumstance considered as of the date of the evaluation (i) prevailing standards as to harmony and compatibility with surrounding aesthetics, appearance and patterns of maintenance and use, harmony and compatibility with surrounding buildings, structures and other Improvements, and harmony and compatibility with surrounding grades, topography, finished ground elevations, locations, colors, finishes, styles, workmanship, type and quality of materials and designs, and (ii) compliance with this Declaration and other applicable dedicatory instruments, and with applicable governmental laws, ordinances and regulations.

RP-2017-459007



**SECTION 1.20. RESIDENTIAL DWELLING** - The single family residence and appurtenances constructed on a Lot.

**SECTION 1.21. RULES AND REGULATIONS** - Rules adopted from time to time by the Board concerning the management and administration of the Subdivision for the use, benefit and enjoyment of the Owners, including, but not limited to, Rules and Regulations governing the use of the Community Properties in the Subdivision.

**SECTION 1.22. SUBDIVISION** - All of Elite Townhomes, a subdivision in Harris County, Texas, according to the Plat thereof, together with all Improvements now or hereafter situated thereon and all rights and appurtenances thereto, and any other land annexed and subjected to the terms of this Declaration. There are a total of forty (40) Lots currently dedicated by the Plat making up the Subdivision, the subject of this Declaration, and within the jurisdiction of the Association. Declarant reserves the right to facilitate the development, construction, and marketing of the Subdivision and the right to direct the size, shape, and composition of the Subdivision until such time that all of the Lots have been conveyed to Owners other than Declarant.

**SECTION 1.23. UTILITY COMPANY or UTILITY COMPANIES** - Any public entity, utility district, governmental entity (including without limitation, districts created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution) or one or more private entities that regulate, provide or maintain utilities and drainage.

**ARTICLE II**  
**General Provisions Relating to Use and Occupancy**

**SECTION 2.1. USE RESTRICTIONS.**

**2.1.1. GENERAL.** The Subdivision will be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration.

**2.1.2. SINGLE FAMILY RESIDENTIAL USE.** Each Owner must use his Lot and the Residential Dwelling and other Improvements on his Lot only for single family residential purposes. As used herein, the term "single family residential purposes" is deemed to specifically prohibit, without limitation, the use of a Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the Residential Dwelling for residential purposes. As used herein, the term "unobtrusive" means, without limitation, that there is no business, professional, or commercial related sign, logo or symbol displayed on the Lot; there is no business, professional, or commercial related sign, logo or symbol displayed on any vehicle on the Lot; there are no clients, customers, employees or the like who go to the Lot for any business, professional, or commercial related purpose on any regular basis; and the conduct of the business, professional, or commercial activity is not otherwise apparent by reason of noise, odor, vehicle and/or pedestrian traffic and the like.

No Owner may use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would: (i) void any insurance in force with respect to the Subdivision; (ii) make it impossible to obtain any insurance required by this Declaration; (iii) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (iv) constitute a violation of the provisions of this Declaration or any applicable law; or (v) unreasonably interfere with the use and occupancy of a Lot in the Subdivision or Community Properties by other Owners.

No Owner is permitted to lease his Lot for a period less than twelve (12) months. Every lease must provide that the lessee is bound by and subject to all the obligations under this Declaration and a failure to comply with the provisions of this Declaration will be a default under the lease. The Owner making such lease will not be relieved from any obligation to comply with the provisions of this Declaration. An Owner is not permitted to lease a room in a Residential Dwelling or other Improvement on the Owner's Lot or any portion less than the entirety of the Lot and the Residential Dwelling and other Improvements on the Lot.

For the purpose of this Section, one (1) full-time, live-in domestic servant or "nanny" is considered an immediate member of the family occupying a Lot.

No garage sale, rummage sale, estate sale, moving sale or similar type of activity is permitted on a Lot.

**2.1.3. NUISANCES.** No rubbish or debris of any kind may be placed or permitted to accumulate upon or adjacent to a Lot and no odors are permitted to arise therefrom, so as to render the Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to another Lot or to its occupants. No nuisance is permitted to exist or operate upon a Lot. For the purpose of this provision, a nuisance is any activity or condition on a Lot which is reasonably considered to be an annoyance to surrounding residents of ordinary sensibilities and/or which might be calculated to reduce the desirability of a Lot. The Board of Directors is authorized to determine whether any activity or condition on a Lot constitutes a nuisance or is offensive and its determination is conclusive and binding on all parties. No exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes and patio speakers (which may only be utilized at such a volume so as not to become a nuisance to the Owners or neighboring Lots) may be located, used or placed on a Lot and then only if properly maintained and operated.

**2.1.4. TRASH CONTAINERS.** No garbage or trash or garbage or trash container may be maintained on a Lot so as to be visible from any street in the Subdivision or any neighboring Lot except to make the same available for collection. Containers for the storage of trash, garbage and other waste materials must be stored out of public view except on trash collection days when they may be placed at the curb not earlier than 7:00 p.m. of the night prior to the day of scheduled collections and must be removed by 7:00 p.m. on the day of collection. Garbage and trash made available for collection must be placed in tied trash bags or covered containers, or as otherwise provided in any trash disposal contract entered into by the Association or as requested by governmental entity.

RP-2017-459007

**2.1.5. RIGHT TO INSPECT.** During reasonable hours, any member of the Architectural Control Committee, any member of the Board, or any authorized representative of any of them, has the right to enter upon and inspect a Lot, and the exterior of the Improvements thereon, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such persons will not be guilty of trespass by reason of such entry.

**2.1.6. ANIMALS.** No animals or birds, other than a reasonable number of generally recognized house or yard pets, may be maintained on a Lot and then only if they are kept thereon solely as domestic pets and not for commercial purposes. No exotic animal or breed of animal that is commonly recognized to be inherently aggressive or vicious toward other animals and/or humans is permitted in the Subdivision. No unleashed dog is permitted on any street or on the Community Properties. Each dog must be kept either in the Residential Dwelling or other Improvement on the Lot or in a yard fully enclosed by a fence. No animal or bird is allowed to make an unreasonable amount of noise or to become a nuisance to the other Owners. No structure for the care, housing or confinement of any animal or bird may be maintained so as to be visible from any street in the Subdivision or a neighboring Lot without the written consent of the Architectural Control Committee. With the exception of all types of pigs, which are prohibited, the Board has the authority to determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal or bird is a generally recognized house or yard pet, an exotic animal, an inherently aggressive or vicious animal, or a nuisance, or whether the number of animals or birds kept on a Lot is reasonable, and its determination is conclusive and binding on all parties.

**2.1.7. DISEASES AND INSECTS.** No Owner may permit anything or condition to exist on a Lot, which may induce, breed or harbor infectious plant diseases or noxious insects.

**2.1.8. SUBDIVISION AND CONSOLIDATION OF LOTS.** No Lot may be further subdivided and no portion of a Lot less than the entirety of the Lot may be conveyed to any party. No Lot may be consolidated with an adjacent Lot.

**2.1.9. SIGNS.** No sign may be erected or maintained on a Lot if visible from any street in the Subdivision or any neighboring Lot except:

- (a) Street signs and such other signs as may be required by law;
- (b) One (1) ground-mounted "for sale" sign not larger than six (6) square feet and not extending more than four (4) feet above the ground;
- (c) Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the dwelling is permitted so long as the sign is not more than 8" x 8" or the sticker is no more than 4" x 4". There will be no more than one (1) sign and no more than six (6) stickers located on the windows or doors. Stickers are also permitted upon windows and doors for the "Child Find" program or a similar program sponsored by the local police and/or local fire department;

RP-2017-459007

- (d) One (1) school spirit sign per child residing in the Residential Dwelling for sports, band, choir, cheer-leader and similar-type activity signs of not more than six (6) square feet; provided, however, that such signs will relate only to activities in educational grade levels one (1) through twelve (12);
- (e) Ground mounted political signs provided the following criteria are met:
- (i) No political sign may be placed on an Owner's Lot prior to the ninetieth (90th) day before the date of the election to which the sign relates, or remain on an Owner's Lot subsequent to the tenth (10th) day after the election date.
  - (ii) Not more than one (1) political sign is allowed per political candidate or ballot item.
  - (iii) No political sign may: contain roofing material, siding, paving, materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; be attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; include the painting of architectural surfaces; threaten the public health or safety; be larger than four feet (4') by six feet (6'); violate a law; contain language, graphics, or any display that would be offensive to the ordinary person; or be accompanied by music, other sounds, by streamers or is otherwise distracting to motorists.
- (f) During the Declarant Control Period, but only with express approval by Declarant, one (1) Builder identification sign of a size and design designated by Declarant.

No sign of any type may contain the word "foreclosure" or any derivative of such word.

Notwithstanding the foregoing provisions, during the Declarant Control Period, Declarant has the authority to allow signs to be erected on Lots as Declarant deems appropriate. No sign is permitted on Community Properties with the exception of a sign placed on Community Properties by Declarant during the Declarant Control Period and, thereafter, the Association. Declarant, during the Declarant Control Period and, thereafter, the Association, has the authority to go upon a Lot and remove any sign displayed on the Lot or Community Properties in violation of this Section and dispose of the sign without liability in trespass or otherwise.

Fines, costs of self-help, and reasonable attorney's fees actually incurred, may be assessed against the Owner of the Lot on which a sign violation exists. Fines, costs of self-help and reasonable attorney's fees actually incurred become part of the assessment payable by said Owner and payment thereof is secured by the lien created in Article VI of this Declaration. The Association, its agents and employees are not be liable, and are expressly relieved from any

liability, for the trespass or other tort in connection with the removal of violating signs from a Lot.

**2.1.10. CLOTHES DRYING.** No outside clothesline or other outside facilities for drying or airing clothes may be erected, placed or maintained on a Lot. No clothes may be aired or dried outside if visible from any street in the Subdivision or any neighboring Lot.

## **SECTION 2.2. VEHICLES; PARKING.**

**2.2.1. PROHIBITED VEHICLES; COVERS PROHIBITED.** No boat, mobile home, trailer, boat rigging, truck larger than a three-quarter ton pick-up, recreational vehicle, bus, unused vehicle, inoperable vehicle of any kind (including any vehicle requiring same which does not have both a current and valid license plate and current and valid state inspection sticker), and no unsightly vehicle as determined in the sole opinion of the Board, may be parked, stored or kept on a street in the Subdivision or on the driveway of a Lot. Such vehicles must be stored within a garage, completely out of view. The use of vehicle covers of all kind (except for vehicles parked completely in a garage) is prohibited.

**2.2.2. PROHIBITED PARKING - GENERAL.** No vehicle of any kind may be parked, kept or stored (i) on the Private Drives, (ii) on an unpaved portion of a Lot or any other place within the Subdivision not intended for use for parking of vehicles, or (iii) in a slanted or diagonal manner across any driveway or other designated parking space, or in any other manner other than as is customary for the type of parking space being used, or (iv) in a manner that obstructs or impairs sidewalk or Private Drive access or use. No Owner or occupant of a Lot is permitted to park, keep or store a vehicle on the Lot of another Owner or occupant.

**2.2.3. REPAIR, RENTAL OR SALE OF VEHICLES PROHIBITED.** No maintenance, repair or restoration work may be performed on a vehicle within the Subdivision, except temporary emergency repairs or other work required to promptly remove an inoperable or disabled vehicle from the Subdivision. Repair work on any vehicle within a garage is limited to minor repairs (such as oil changes, headlight bulb replacements and similar minor repairs). Extensive or frequent work on vehicles is prohibited. No vehicle rental or sales activities of any kind, whether or not for profit, may be conducted at any time on a Lot or elsewhere within the Subdivision.

**2.2.4. VEHICLE DEFINED.** As used in this Section, "vehicle" means a device in, on, or by which a person or property may be transported, including an operable or inoperable automobile, truck, motorcycle, recreational vehicle, trailer, and such other devices as from time to time specified by applicable Rules and Regulations.

**2.2.5. PRESUMPTIVE VIOLATIONS.** Repairs or other work extending over a period exceeding eight (8) hours is conclusively presumed not to be "temporary". Any vehicle is conclusively presumed to be "unused" or "inoperable" if the vehicle has not been operated outside the Subdivision for seven (7) or more consecutive days or the vehicle has not been operated outside the Subdivision more than twice in any fourteen (14) day period. The provisions hereof do not prejudice the right of the Association to otherwise establish a

violation. The foregoing provisions do not apply to a vehicle completely stored within a garage.

**2.2.6. TOWING.** The Board or its designated representative may cause a vehicle which is parked, stored or maintained on Community Properties in violation of this Declaration to be removed from the Subdivision at the sole cost and expense of the person owning such vehicle in accordance with Chapter 2308 of the Texas Occupations Code, as amended.

**2.2.7. LIMITATION OF LIABILITY.** THE ASSOCIATION HAS NO LIABILITY WHATSOEVER IN CONSEQUENCE OF REMOVAL OF ANY VEHICLE AS HEREIN PROVIDED. THE PERSON OWNING EACH TOWED VEHICLE (WHETHER OR NOT SUCH PERSON IS AN OWNER) AND THE OWNER AND OWNER'S TENANT AS TO WHOM SUCH PERSON IS A VISITOR, GUEST, OR INVITEE, MUST HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LIABILITIES OR DAMAGES ARISING, DIRECTLY OR INDIRECTLY, AS RESULT OF SUCH REMOVAL.

### **SECTION 2.3. PERMITTED BUILDINGS AND EXTERIOR IMPROVEMENTS.**

**2.3.1. TYPES OF BUILDINGS.** No building may be erected, altered, placed or permitted to remain on a Lot other than one (1) Residential Dwelling not to exceed the height limitations set forth in Section 2.4.2. The exterior of a Residential Dwelling must be white stucco. The Architectural Control Committee has exclusive authority to determine whether Plans for a Residential Dwelling to be constructed on a Lot are acceptable and its determination is conclusive and binding on all parties.

**2.3.2. TEMPORARY STRUCTURES.** No building or structure of a temporary character, trailer (with or without wheels and whether or not attached to a foundation), mobile home (with or without wheels and whether or not attached to a foundation), modular or prefabricated home, manufactured home, tent, shack, barn or other building, other than the permanent Residential Dwelling may be placed on a Lot, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto may be moved onto a Lot from another location. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, and to permit Builders to erect, place and maintain, such facilities in and upon the Subdivision as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of Residential Dwellings and construction of other Improvements in the Subdivision. In addition, Declarant reserves the right and authority during the Declarant Control Period or as long as Declarant has architectural control authority over new Residential Dwelling construction, whichever is longer, to use the Residential Dwelling on a Lot it owns or to allow a Builder to use the Residential Dwelling on any Lot the Builder owns as a model home and/or sales office. Any bank or other lender providing financing to Declarant in connection with the development of the Subdivision or the construction of Improvements thereon may erect signs on Lots owned by Declarant and/or the Community Properties to identify such lender and the fact that it is supplying such financing.

**2.3.3. GARAGES AND GARAGE DOORS.** Each Residential Dwelling must have an attached, enclosed garage for two (2) vehicles. The garage must be architecturally similar

RP-2017-459007

and compatible to the appurtenant Residential Dwelling, including the roof line and appearance. All garages must be enclosed with permanent walls and their fronts enclosed with standard type overhead doors customarily used in the building industry which garage doors must be maintained in good working order at all times. ANY REPLACEMENT GARAGE DOOR MUST BE OF EQUAL OR BETTER QUALITY AND SUBSTANTIALLY THE SAME DESIGN AS THE GARAGE DOOR FOR THE GARAGE AS ORIGINALLY CONSTRUCTED, AND MUST BE PAINTED TO MATCH THE COLOR SCHEME OF THE RESIDENTIAL DWELLING AS ORIGINALLY CONSTRUCTED OR A SUBSEQUENT COLOR SCHEME WHICH HAS BEEN APPROVED IN WRITING BY THE ACC. Except for interior modifications of a garage wholly consistent with its use as a garage and which do not alter the use or exterior appearance of the garage as originally constructed, no modification of the interior or exterior of any garage as originally constructed is permitted without prior written approval of the ACC. GARAGE DOORS MUST BE KEPT CLOSED AT ALL TIMES EXCEPT FOR ENTRY AND EXIT OF VEHICLES OR DURING BRIEF PERIODS WHEN THE GARAGE IS BEING ACTIVELY USED FOR CUSTOMARY PURPOSES.

**2.3.4. AIR CONDITIONERS.** No window, roof or wall type air conditioner that is visible from the Community Properties or any neighboring Lot may be used, placed or maintained on or in a Residential Dwelling, garage or other Improvement.

**2.3.5. ANTENNAS, SATELLITE DISHES AND MASTS.** No exterior antenna, aerial, satellite dish, or other apparatus for the reception of television, radio, satellite or other signals of any kind may be placed or maintained on a Lot, which is visible from any street, Community Properties or another Lot, unless it is impossible to receive an acceptable quality signal from any other location. In that event, the receiving device may be placed in the least visible location where reception of an acceptable quality signal is possible. The Architectural Control Committee may require painting or screening of the receiving device, which painting or screening does not substantially interfere with an acceptable quality signal. In no event are the following devices permitted: (i) satellite dishes, which are larger than one (1) meter in diameter; (ii) broadcast antenna masts, which exceed the height of the center ridge of the roofline; or (iii) MMDS antenna masts, which exceed the height of twelve feet (12') above the center ridge of the roofline. No exterior antenna, aerial, satellite dish, or other apparatus may be placed or maintained on a Lot, which transmits television, radio, satellite or other signals of any kind. This section is intended to comply with the Telecommunications Act of 1996 (the "Act"), as the Act may be amended from time to time, and FCC regulations promulgated pursuant to the Act. This section must be interpreted to be as restrictive as possible, while not violating the Act and applicable FCC regulations. The Architectural Guidelines may further define, restrict or elaborate on the placement and screening of receiving devices and masts, provided such Architectural Guidelines are in compliance with the Act and FCC regulations.

**2.3.6. EXTERIOR LIGHTING.** All exterior lighting on a Lot must be approved by the Architectural Control Committee as to type, location and illumination. No exterior lighting may be directed toward another Lot or illuminate beyond the boundaries of the Lot on which the lighting fixture is situated.

**2.3.7. MAILBOXES.** Individual mailboxes on a Lot must be approved by the Architectural Control Committee. If cluster mailboxes are used in the Subdivision, individual mailboxes are not permitted on a Lot.

**2.3.8. ROOFING.** The Architectural Control Committee has the right to establish specific requirements for the pitch of any roof and the type of roofing materials, which may be utilized for any Residential Dwelling. All roofing materials on a Residential Dwelling or other Improvement on a Lot must be in accordance with the Architectural Guidelines and approved in writing by the Architectural Control Committee prior to the commencement of construction. All plumbing or heating vents, stacks and other projections from the roof of a Residential Dwelling, to the extent possible, must be located on the rear roof of such Residential Dwelling and must blend or be painted to blend with the color of the roofing material.

**2.3.9. WINDOW TREATMENTS AND DOORS.** Reflective glass is not permitted on the exterior of any Residential Dwelling or other Improvement on a Lot. No foil or other reflective materials may be installed on any windows or used for sunscreens, blinds, shades or other purposes except as approved in writing by the Architectural Control Committee. All window treatments visible from outside the Residential Dwelling must be shades of white, off white or beige. Burglar bars or doors are not permitted on the exterior of any windows or doors. Screen doors are not to be used on the front or side of any Residential Dwelling. No aluminum or metal doors with glass fronts (e.g., storm doors) are allowed on the front of any Residential Dwelling or on the rear of any Residential Dwelling.

**2.3.10. UTILITY METERS AND HVAC EQUIPMENT.** All electrical, gas, telephone and cable television meters and all exterior heating, ventilating and air-conditioning compressor units and equipment must be located in a manner approved by the Architectural Control Committee, with the objective being to minimize visibility.

**2.3.11. DRIVEWAYS AND SIDEWALKS.** All driveways and sidewalks must be paved; chert, gravel and loose stone driveways and sidewalks are prohibited. No driveway or sidewalk may be painted or stained without the prior written approval of the Architectural Control Committee. Driveways and sidewalks must be properly maintained, including, without limitation, the removal of oil stains and the removal of grass and/or weeds in expansion joints.

**2.3.12. EXTERIOR COLORS.** The color(s) of paint and color impregnation proposed to be used on the exterior of the Residential Dwelling or other Improvement on a Lot must be approved in writing by the Architectural Control Committee prior to application. The Owner of a Lot is required to submit to the Architectural Control Committee a request for approval of the proposed paint color(s), together with paint samples. The Architectural Control Committee has the authority to disapprove a proposed paint color if the color is not compatible with colors commonly used on the exteriors of Residential Dwellings and Improvements in the Subdivision, or if two (2) or more colors proposed to be used on a Residential Dwelling or other Improvement on a Lot are not compatible with each other. Exterior colors are generally limited to those colors used on Residential Dwellings and other Improvements at the time of original construction. The purpose of this covenant is to maintain harmony of the exterior paint colors of Residential Dwellings and other Improvements throughout the Subdivision. Iridescent colors or tones considered to be brilliant are not permitted. For the purpose of this paragraph,



“brilliant” means a color that is not in the general texture of both the overall community and natural setting of the Subdivision.

**2.3.13. RAIN BARRELS AND RAIN HARVESTING SYSTEMS.** Section 202.007 of the Texas Property Code provides that a property owners’ association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing rain barrels or a rain harvesting system on the property Owner’s Lot. However, Section 202.007 of the Texas Property Code further provides that a property owners’ association is not required to permit a rain barrel or rainwater harvesting system to be installed on a Lot in particular circumstances or restricted from regulating rain barrels and rain harvesting devices in specified manners. The following provisions are applicable to rain barrels and rain harvesting systems in the Subdivision:

- (a) Architectural Control Committee Approval. In order to confirm the proposed rain barrel or rain harvesting device is in compliance with the Architectural Guidelines, Owners are encouraged to apply to the Architectural Control Committee for prior approval. The Association may require an Owner to remove a rain barrel or rain harvesting device that does not comply with requirements of the Architectural Guidelines.
- (b) Location. A rain barrel or rain harvesting system is not permitted on a Lot between the front of the Residential Dwelling on the Lot and an adjacent street.
- (c) Color and Display. A rain barrel or rain harvesting system is not permitted:
  - (i) unless the color of the rain barrel or rain harvesting system is consistent with the color scheme of the Residential Dwelling on the Owner’s Lot; or
  - (ii) if the rain barrel or rain harvesting system displays any language or other content that is not typically displayed by the rain barrel or rain harvesting system as it is manufactured.
- (d) Regulations if Visible. If a rain barrel or rain harvesting system is located on the side of the Residential Dwelling on the Lot or at any other location on the Lot that is visible from a street, another Lot, or Community Properties, the rain barrel or rain harvesting system must comply with the following regulations:
  - (i) Rain Barrel:
    - (1) Size: A maximum height of forty-two (42) inches and a maximum capacity of fifty (50) gallons.
    - (2) Type: A rain barrel that has the appearance of an authentic barrel and is either entirely round or has a flat back to fit flush against a wall. A rain barrel must have a

RP-2017-459007

manufactured top or cap to prevent or deter the breeding of mosquitoes.

- (3) Materials: Wood, metal, polyethylene or plastic resin designed to look like an authentic barrel in brown or other earth tone color.
- (4) Screening: The rain barrel must be screened with evergreen landscaping to minimize its visibility from a street, another Lot, and Community Properties, unless otherwise approved in writing by the Architectural Control Committee.
- (5) Downspout: The downspout which provides water to the rain barrel must be the same color and material as the gutters on the Residential Dwelling. Further, the downspout must be vertical and attached to the wall against which the rain barrel is located.

- (ii) Rain Harvesting System: A rain harvesting system must collect and store the water underground. The portion of a rain harvesting system that is above-ground must appear to be a landscape or water feature. The above-ground portion of the rain harvesting system may not extend above the surface of the ground by more than thirty-six (36) inches. The above-ground portion of the rain harvesting system must be screened with evergreen landscaping to minimize visibility from a street, another Lot, and Community Properties, unless otherwise approved in writing by the Architectural Control Committee.

Provided that, the regulations in this Section 2.3.13 are applicable only to the extent that they do not prohibit the economic installation of the rain barrel or rain harvesting system on the Lot and there is a reasonably sufficient area on the Lot in which to install the rain barrel or rain harvesting system.

**2.3.14. SOLAR ENERGY DEVICES.** Section 202.010 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing a solar energy device except as otherwise provided therein. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171.107 of the Tax Code, which defines the term as "a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power". The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. The following provisions are applicable to solar energy devices in the Subdivision:

- (a) Architectural Control Committee Approval. The installation of a solar energy device requires the prior written approval of the Architectural

RP-2017-459007

Control Committee. Provided that, the Architectural Control Committee may not withhold approval if the Architectural Guidelines are met or exceeded, unless the Architectural Control Committee determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes prima facie evidence that substantial interference does not exist.

- (b) Location. A solar energy device is not permitted anywhere on a Lot except on the roof of the Residential Dwelling or other permitted structure on the Lot or in a fenced yard or patio within the Lot.
- (c) Devices Mounted on a Roof. A solar energy device mounted on the roof of the Residential Dwelling or other permitted structure on a Lot:
  - (i) may not extend higher than or beyond the roofline;
  - (ii) must conform to the slope of the roof and have a top edge that is parallel to the roofline;
  - (iii) must have frames, support brackets and/or visible piping or wiring that are silver, bronze or black tone, as commonly available in the marketplace; and
  - (iv) must be located on the roof as designated by the Architectural Control Committee unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the Architectural Control Committee. For determining estimated annual energy production, the parties must use a publicly available modeling tool provided by the National Renewable Energy Laboratory.
- (d) Visibility. A solar energy device located in a fenced yard or patio may not be taller than or extend above the fence enclosing the yard or patio.
- (e) Warranties. A solar energy device may not be installed on a Lot in a manner that voids material warranties.
- (f) Limitations. A solar energy device is not permitted on a Lot if, as adjudicated by a court, it threatens the public health or safety or violates a law.

**2.3.15. STORM AND ENERGY EFFICIENT SHINGLES.** Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing shingles that are designed to:

- (a) be wind and hail resistant; provide heating and cooling efficiencies greater than those provided by customary composition shingles; or provide solar generation capabilities; and
- (b) when installed: resemble the shingles used or otherwise authorized for use on Lot in the Subdivision; are more durable than and are of equal or superior quality to the shingles described below; and match the aesthetics of the property surrounding the Owner's Lot.
  - (i) Architectural Control Committee Approval. In order to confirm the proposed shingles conform to the Declaration and Architectural Guidelines, Owners are encouraged to apply to the Architectural Control Committee for prior approval. The Association may require an Owner to remove shingles that do not comply with this Declaration or the Architectural Guidelines.
  - (ii) Appearance. When installed, storm and energy efficient shingles must resemble, be more durable than, and be of equal or superior quality to the types of shingles otherwise required or authorized for use in Subdivision as set forth above. In addition, the storm or energy efficient shingles must match the aesthetics of the Lots surrounding the Lot in question.

**2.3.16. FLAGS.** Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting a flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces, except as otherwise provided therein.

- (a) The following provisions are applicable to flagpoles and the three (3) types of flags listed in Section 202.011 of the Texas Property Code:
  - (i) Architectural Control Committee Approval. Proposed flagpoles, flagpole stands and/or footings and illumination must be approved by the Architectural Control Committee. The Association may require an Owner to remove flagpoles, flagpole footings, or flags that do not comply with the Architectural Guidelines.
  - (ii) Flag of the United States. The flag of the United States must be displayed in accordance with applicable provisions of 4 U.S.C. Sections 5-10, which address, among other things, the time and occasions for display, the position and manner of display, and respect for the flag.
  - (iii) Flag of the State of Texas. The flag of the State of Texas must be displayed in accordance with applicable provisions of Chapter 3100 of the Texas Government Code, which address, among other things,

the orientation of the flag on a flagpole or flagstaff, the display of the flag with the flag of the United States, and the display of the flag outdoors.

(b) Flagpoles.

- (i) Not more than one (1) freestanding flagpole in the rear private yard or flagpole attached to the Residential Dwelling (on a permanent or temporary basis) is permitted on a Lot. A freestanding flagpole may not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole.
- (ii) A flagpole attached to the Residential Dwelling may not exceed six (6) feet in length.
- (iii) A flagpole must be constructed of permanent, long-lasting materials with a finish appropriate to materials used in the construction of the flagpole and harmonious with the Residential Dwelling on the Lot on which it is located.
- (iv) A flagpole may not be attached to a tree.

(c) Flags.

- (i) Only the three (3) types of flags addressed in this Section may be displayed on a freestanding flagpole. Other types of flags may be displayed on a wall-mounted flagpole as otherwise provided in the Architectural Guidelines.
- (ii) Not more than two (2) of the permitted types of flags may be displayed on a flagpole at any given time.
- (iii) The maximum dimensions of a displayed flag on a freestanding flagpole that is less than fifteen (15) feet in height or on a flagpole attached to the Residential Dwelling or garage must be three (3) feet by five (5) feet.
- (iv) The maximum dimensions of a displayed flag on a freestanding flagpole that is fifteen (15) feet in height or greater is four (4) feet by six (6) feet.
- (v) A displayed flag must be maintained in good condition; a deteriorated flag must be replaced or removed.
- (vi) A flag must be displayed on a flagpole. A flag may not be attached to the wall of the Residential Dwelling or other structure on a Lot or a tree, or be displayed in a window of the residential dwelling or other structure on a Lot.

**2.3.17. RELIGIOUS ITEMS.** Section 202.018 of the Texas Property Code provides that a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property Owner or resident from displaying or affixing on the entry to the Owner's or resident's Residential Dwelling one or more religious items, the display of which is motivated by the Owner's or resident's sincere religious belief, except as otherwise provided therein. Section 202.001(4) of the Texas Property Code defines "restrictive covenant" to mean any covenant,

condition, or restriction contained in a dedicatory instrument. The following provisions are applicable to the display of religious items in the Subdivision:

- (a) Architectural Control Committee Approval. As authorized by the Declaration and, therefore, allowed by Section 202.018(c) of the Texas Property Code any alteration to the entry door or door frame must first be approved by the Architectural Control Committee.
- (b) Location. Except as otherwise provided in this Section, a religious item is not permitted anywhere on a Lot except on the entry door or door frame of the Residential Dwelling. A religious item may not extend past the outer edge of the door frame.
- (c) Size. The religious item(s), individually or in combination with each other religious item displayed or affixed on the entry door or door frame, may not have a total size of greater than twenty-five (25) square inches.
- (d) Content. A religious item may not contain language, graphics, or any display that is patently offensive to persons of ordinary sensibilities.
- (e) Limitation. A religious item may not be displayed or affixed on an entry door or door frame if it threatens the public health or safety or violates a law.
- (f) Color of Entry Door and Door Frame. An Owner or resident is not permitted to use a color for an entry door or door frame of the Owner's or resident's Residential Dwelling or change the color of an entry door or door frame that is not authorized by the Board.
- (g) Other. Notwithstanding the above provisions: (i) the Architectural Control Committee has the authority to allow a religious statue, such as by way of example and not in limitation, a statue of St. Francis of Assisi or other religious item in a landscape bed or other portion of a Lot, and (ii) the Architectural Guidelines will not prohibit or apply to temporary seasonal decorations related to religious holidays.

**2.3.18. STANDBY ELECTRIC GENERATOR.** Consistent with Section 202.019 of the Texas Property Code, the following addresses the requirements for installation and operation of standby electric generators in the Subdivision:

- (a) Definitions:
  - (i) Standby Electric Generator – A device that converts mechanical energy to electrical energy and is:
    - a. powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen;

- b. fully enclosed in an integral manufacturer-supplied sound attenuating enclosure;
- c. connected to the main electrical panel of the Residential Dwelling by a manual or automatic transfer switch; and
- d. rated for generating capacity of not less than seven (7) kilowatts.

- (b) Architectural Control Committee Approval. A Standby Electric Generator may not be installed on a Lot unless an application therefor is first submitted to and approved in writing by the Architectural Control Committee as to compliance with the provisions of this Section 2.3.18. The submission of plans must include a completed application for Architectural Control Committee review, a site plan showing the proposed location of the Standby Electric Generator, the type of screening to be used (if required as provided in (d) below), and a copy of the manufacturer's brochures. The Architectural Control Committee may not withhold approval of a Standby Electric Generator if the proposed installation meets or exceeds the provisions set forth in (c) below, and, if visible as provided in (d) below, the Standby Electric Generator is screened in the manner required by the Architectural Control Committee.
- (c) Requirements. The installation and operation of a permanent Standby Electric Generator on a Lot is permitted, subject to the prior written approval of the Architectural Control Committee and compliance with the following requirements:
  - (i) a Standby Electric Generator must be installed and maintained in compliance with the manufacturer's specifications and applicable governmental health, safety, electrical, and building codes;
  - (ii) all electrical, plumbing, and fuel line connections for a Standby Electric Generator must be installed by a licensed contractor;
  - (iii) all electrical connections for a Standby Electric Generator must be installed in accordance with applicable governmental health, safety, electrical, and building codes;
  - (iv) all natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections for a Standby Electric Generator must be installed in accordance with applicable governmental health, safety, electrical, and building codes;
  - (v) all liquefied petroleum gas fuel line connections for a Standby Electric Generator must be installed in accordance with rules and

standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes;

- (vi) a nonintegral Standby Electric Generator fuel tank must be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes;
- (vii) a Standby Electric Generator and all electrical lines and fuel lines relating to the Standby Electric Generator must be maintained in good condition;
- (ix) a deteriorated or unsafe component of a Standby Electric Generator, including electrical or fuel lines, must be repaired, replaced, or removed;
- (x) periodic testing of a Standby Electric Generator must be in accordance with the manufacturer's recommendations, and may occur not more than once a week, on a day other than a Sunday, between the hours of 10:00 a.m. and 4:00 p.m.; and
- (xi) the preferred location of a Standby Electric Generator is:
  - a. at the side or rear plane of the Residential Dwelling;
  - b. outside (not within) any easement applicable to the Lot;
  - c. outside (not within) the side setback lines applicable to the Lot.

However, in the event the preferred location either (a) increases the cost of installing the Standby Electric Generator by more than ten percent (10%) or (b) increases the cost of installing and connecting the electrical and fuel lines for the Standby Electric Generator by more than twenty percent (20%), the Standby Electric Generator must be located on the Lot in a position that complies as closely as possible with the preferred location without violating either (i) or (ii) herein.

- (d) Screening. If a Standby Electric Generator is:
  - (i) visible from the street in front of the Residential Dwelling on the Lot on which it is located,
  - (ii) located in an unfenced side or rear yard of the Lot and is visible either from an adjoining Lot or from adjoining property owned by the Association, or



- (iii) located in a side or rear yard of the Lot that is fenced by a wrought iron fence or residential aluminum fence and is visible through the fence either from an adjoining Lot or from adjoining property owned by the Association,

the Owner will be required to screen the Standby Electric Generator by evergreen landscaping or in another reasonable manner, as determined by the Architectural Control Committee.

- (e) Prohibitions. A Standby Electric Generator may not be used to generate all or substantially all of the electrical power to a Residential Dwelling, except when utility-generated electrical power to the Residential Dwelling is not available or is intermittent due to causes other than non-payment for utility service to the Residential Dwelling.

No Owner may install or place a Standby Electric Generator on property that is owned or maintained by the Association. This Section 2.3.18 does not apply to property that is owned or maintained by the Association.

**2.3.19. COMPLIANCE WITH ARCHITECTURAL GUIDELINES.** All Owners and Builders are obligated to strictly comply with all provisions of the Architectural Guidelines for the Subdivision in effect as of the date of recording this Declaration or as such Architectural Guidelines may hereafter be adopted and/or amended. The Architectural Guidelines may address, without limitation, construction procedures, hours during which construction work is permitted, parking of construction vehicles, and the like.

**SECTION 2.4. SIZE AND LOCATION OF BUILDINGS AND STRUCTURES.**

**2.4.1. MINIMUM ALLOWABLE AREA OF INTERIOR LIVING SPACE.** The minimum allowable area of interior living space in a Residential Dwelling is two thousand (2,000) square feet. For purposes of this Declaration, the term "interior living space" excludes steps, porches, exterior balconies, and garages.

**2.4.2. MAXIMUM ALLOWABLE HEIGHT OF BUILDINGS.** No Residential Dwelling may exceed a height of forty-five (45) feet above finished grade.

**2.4.3. LOCATION OF RESIDENTIAL DWELLING AND IMPROVEMENTS FRONT AND REAR SETBACKS.** No Residential Dwelling or other Improvement may be located on a Lot closer than five (5) feet from the rear property line and three (3) feet from the front property line, or the applicable setback shown on the Plat, whichever is greater. All Residential Dwellings must be oriented to the front of the Lot. In the event there is a conflict between the Architectural Guidelines, this Declaration, any other documents imposed upon the Property that set forth a setback requirement, and the Plat, the more restrictive will control. Notwithstanding anything to the contrary herein, in no case shall any setback on a Lot be less than the width of any easement existing on such Lot, as shown on the Plat.

RP-2017-459007

**2.4.4 ZERO LOT LINE PROPERTIES.** Lots in the Subdivision will be based upon a zero side building setback concept ("Zero Lot Lines"). The following provisions apply to Zero Lot Lines:

(a) **General.** Each Residential Dwelling on a Zero Lot Line Lot will be designed so as to provide that all or a portion of the linear distance of one (1) wall of the Residential Dwelling is constructed either adjacent to and abutting, or within six (6) inches or less of a side Lot line. Such side Lot line where there is such construction will be hereinafter referred to as the "**Zero Lot Line**". Provided that, an open court or patio may be built adjacent and abutting, or within six (6) inches or less of the Zero Lot Line, but said open court or patio must be enclosed by a cedar wood fence having a maximum height of seven (7) feet above the foundation. Such wall must be constructed adjacent to, or within six (6) inches or less of the abutting Zero Lot Line and must enclose the court or patio in such a manner as to appear to be an extension of the Residential Dwelling. A Zero Lot Line wall may not have exterior objects or appurtenances, by way of example, and not by limitation, electrical panels (unless otherwise required by the electric company), vents, plumbing clean outs or openings of any kind, unless such Zero Lot Line side is on the street side of a corner Lot. Provided that, the Architectural Review Committee has the discretion to approve or disapprove windows in this particular location. If the Zero Lot Line is on the street side of a corner Lot, normal openings and exterior appurtenances may be constructed in the Residential Dwelling abutting the Zero Lot Line. Provided that, the roof overhang and the attached guttering of the Residential Dwelling may extend and encroach over the Zero Lot Line for a distance not to exceed eighteen (18) inches.

The distance between the Zero Lot Line and the closest wall of the Residential Dwelling situated upon the adjoining Lot must be a minimum of three (3) feet. No Residential Dwelling may be located on a Lot within any utility easements along the rear Lot line.

Notwithstanding the foregoing, restrictions regarding emergency escape and rescue openings in Section R310 of the International Residential Code control.

(b) **Easements.** Each Owner of a Zero Lot Line Lot has a perpetual, non-exclusive easement over, on and across the Lot or Restricted Reserve, as applicable, which is adjacent to, and contiguous with, the Zero Lot Line side of the Owner's Lot. This easement is limited to an area that is three (3) feet in width and parallel to the Owner's Zero Lot Line, and is further limited to the purposes of constructing improvements located on the Zero Lot Line, maintenance, repair and upkeep as is reasonably necessary for improvements on the Zero Lot Line and for ingress and egress in the event of an emergency. The three (3) foot wide easement may also be used for eaves overhang, guttering, eaves drip and land drain for any and all rain water flowing naturally from the eaves of the Owner's Zero Lot Line Lot onto an adjoining Lot.

Conditions and use of this easement are hereby declared and established by and between the Owner of the Residential Dwelling on the Zero Lot Line (the "**Benefitting Owner**") and the Owner of the adjoining Lot, which will be covenants running with the land and binding on both of the above-mentioned Owners and all of their respective heirs, successors and assigns, forever, to wit:

- (i) The Benefitting Owner must replace or return to existing condition any fencing, landscaping or other items on the adjoining Lot that the Benefitting

Owner may disturb during construction, repair or maintenance, save and except as provided below in subsection (ii).

- (ii) This easement, when used by the Benefitting Owner for such construction, repair or maintenance, must be left clean and unobstructed, unless the easement is actively being utilized, and any items removed must be replaced.
- (iii) The Benefitting Owner must notify the Owner of the adjoining Lot of his or her intent to do any construction, repair or maintenance at least forty-eight (48) hours prior to starting any work. The hours that such easement may be utilized are between 8:00 a.m. and 5:00 p.m., Monday through Friday, between 9:00 a.m. and 6:00 p.m. on Saturday, and between 12:00 p.m. and 6:00 p.m. on Sunday. Notwithstanding the foregoing, in the event of an emergency, and to prevent imminent damage to a Zero Lot Line Lot or its occupants, a Benefitting Owner may enter the easement at any time necessary and without prior notice to the Owner of the adjoining Lot to perform emergency repairs or to escape injury.
- (iv) Both the Benefitting Owner and the adjoining Lot Owner have the right of surface drainage over, along and upon the easement area. Neither the Benefitting Owner nor the adjoining Lot Owner may use the easement area in such a manner that will interfere with such drainage.
- (v) Neither the Benefitting Owner nor the adjoining Lot Owner may attach any object to the Zero Lot Line Lot or wall facing onto the easement area and the Owner of the adjoining Lot may not use such Zero Lot Line Lot and/or wall as a playing surface for, or as part of, any sport or game. In addition, no structure may be constructed or placed upon the easement area by either the Benefitting Owner or the adjoining Lot Owner, except the roof overhang and the guttering as provided above, and a fence by the Owner of the adjoining Lot, which allows proper surface drainage; provided that, access to the easement must be preserved for the Benefitting Owner.
- (vi) Neither the Benefitting Owner nor the adjoining Lot Owner may construct or place, or cause to be constructed or placed, any structure or object of any kind which impedes egress from any window located on the wall of the Zero Lot Line Lot facing into the easement area.

Each Owner of a Zero Lot Line Lot has, and is hereby granted, a perpetual non-exclusive three (3) foot underground easement extending three (3) feet into the side building setback line of the adjoining Lot with said easement being contiguous to the Zero Lot Line of the Lot benefitting from said easement, hereinafter referred to as the “**Bell Bottom Easement**”. The Bell Bottom Easement may be used solely for the installation, construction and maintenance of underground bell bottoms in conjunction with the installation or repair of the foundation of the Residential Dwelling or other Improvement of such Owner.

## SECTION 2.5. WALLS AND FENCES.

**2.5.1. ARCHITECTURAL CONTROL COMMITTEE APPROVAL REQUIRED.** No fencing may be constructed, placed or maintained on a Lot without prior written approval of the Architectural Control Committee.

**2.5.2. GENERAL REQUIREMENTS.** Unless otherwise approved in writing by the Architectural Control Committee, all fencing on a Lot must comply with the following:

- (a) No fencing on a Lot may be more than six feet (6') in height.
- (b) All fencing on a Lot (other than hedges) must be constructed of redwood or cedar vertical pickets with treated pine (or equivalent as approved by the Architectural Control Committee) post and supports, or ornamental wrought iron, brick or masonry, or combinations thereof, or composite materials which substantially simulate the appearance of the foregoing, as approved by the Architectural Control Committee.
- (c) NO CHAIN LINK TYPE FENCING OF ANY TYPE IS PERMITTED ON A LOT.
- (d) NO FENCING ON A LOT MAY BE ERECTED OR MAINTAINED NEARER TO THE FRONT BUILDING SETBACK LINE THAN THE PLANE OF THE FRONT EXTERIOR WALL OF THE RESIDENTIAL STRUCTURE ON SUCH LOT THAT IS FARTHEST FROM THE FRONT BUILDING SETBACK LINE.

**2.5.3. OWNERSHIP AND MAINTENANCE.** Ownership of all fencing on a Lot passes with title to the Lot. All fencing on a Lot must be continuously maintained by the Owners in a structurally sound condition, in a neat and attractive condition, in good repair and otherwise as required to obtain and maintain Prevailing Community Standards. The foregoing includes, without limitation, such maintenance, repair or replacement as is required to prevent listing or leaning, repair of all damaged or broken pickets, rails and posts, and all holes and cracks, and repair or replacement as required to prevent rot or decay, and any other visible signs of dilapidation or deterioration. Fencing on a Lot which has been defaced with graffiti or other markings must be restored to its prior condition within 72 hours of such defacement or markings. PAINTING OR STAINING OF WOODEN FENCES IS PROHIBITED UNLESS APPROVED IN WRITING BY THE ARCHITECTURAL CONTROL COMMITTEE. All maintenance, repair or replacement of fencing on a Lot, which separates adjoining Lots, or which is otherwise shared in common by two (2) or more adjoining Lots, is the joint responsibility of, and the costs thereof will be shared equally by, the adjoining Owners. Otherwise, all such maintenance, repair or replacement is the responsibility of, and at the sole cost of, the Owner upon whose Lot the fencing is located. ONCE INSTALLED, THE LOCATION, STYLE, FINISH, APPEARANCE AND ALL OTHER FEATURES OF FENCING ON A LOT MAY NOT BE MODIFIED OR CHANGED WITHOUT PRIOR WRITTEN APPROVAL OF THE ARCHITECTURAL CONTROL COMMITTEE.

**2.5.4. PERIMETER FENCING.** "Perimeter Fencing" means all fences and freestanding fence type walls which encloses the exterior boundaries of the Subdivision or

which is otherwise designated as Perimeter Fencing and all Subdivision main entry fences, walls, and/or entry and other identification monuments. Notwithstanding anything contained in this Declaration to the contrary, all Perimeter Fencing will be maintained by the Association. No Owner, and no other person may modify, alter or in any manner change; or attach anything to, any Perimeter Fencing without the prior written consent of the Architectural Control Committee.

## **SECTION 2.6. OWNERS' ACCESS EASEMENT.**

**2.6.1 DEFINED.** Each Lot and the Community Properties are subject to a non-exclusive access easement for the inspection, construction, maintenance, repair and replacement of Improvements located upon any adjacent Lot (the "**Accessing Lot**") for usage by an Accessing Lot Owner or occupant, or their agents or employees. The Lot or Community Properties being accessed is herein referred to as the "**Easement Lot**". This access easement area on the Easement Lot (the "**Access Area**") consists of a strip of land abutting the nearest boundary line of the Accessing Lot of not less than three feet (3') nor more than six feet (6'), as may be reasonably required, and to such additional area as may be approved in writing by the Architectural Control Committee upon written request stating a reasonable necessity for same, provided that the Access Area does not in any event extend past the exterior wall of any Residential Dwelling or garage, or the foundation of either. THIS ACCESS EASEMENT AREA MAY BE UTILIZED ONLY WHEN AND TO THE EXTENT SAID CONSTRUCTION, MAINTENANCE, REPAIR OR REPLACEMENT CANNOT BE REASONABLY CONDUCTED WITHIN THE BOUNDARIES OF THE ACCESSING LOT. Except in the case of an Emergency, in no event will such easement extend to any part of the Residential Dwelling garage, or other building located on the Easement Lot.

**2.6.2 NOTICE; DURATION.** Prior to use of the Access Area, the Owner or occupant of the Accessing Lot must give written notice of intent to utilize the Access Area stating therein the nature of intended use and the duration of such usage. Such notice must be delivered to the Owner or occupant of the Easement Lot by regular or certified mail or personal delivery, or by attaching same to the front door of the Residential Dwelling located upon the Easement Lot. If by mail, such notice must be given at least ten (10) days prior to use of the Access Area; and if by personal delivery or affixing to the front door, such notice must be given at least seven (7) days prior to use of the Access Area. In case of emergency the Accessing Lot Owner or occupant may commence and continue usage of the Access Area without giving the foregoing notice for so long as is reasonably necessary to control the emergency and complete work necessitated thereby, but must proceed with giving of the required notice as soon as practical after commencement of usage.

**2.6.3. USAGE.** Usage of the Access Area is limited to the minimum reasonable amount of time and area required to complete necessary work to preserve, protect, construct, maintain, repair, and replace the Residential Dwelling or other structures and Improvements located on the Accessing Lot. Work during the usage period must be conducted in such manner as to minimize so far as reasonably possible inconveniences and disruptions to the Easement Lot and its occupants. Except in case of emergency or unless otherwise authorized by the Owner or occupant of the Easement Lot, work during the usage period may not be conducted

during legal holidays or any Sunday and must otherwise be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays.

**2.6.4. ARCHITECTURAL CONTROL COMMITTEE APPROVAL OF ACCESS AREA IMPROVEMENTS.** No structure or Improvements other than grass, and customary, non-exotic flower and shrubbery beds, may be placed within the Access Area at any time without the prior written approval of the Architectural Control Committee. The Architectural Control Committee may disapprove any proposed structure or Improvement which it reasonably determines will substantially interfere with, or be unduly burdensome to, or which would cause excessive expense to any potential Accessing Lot if access becomes necessary as herein provided.

**2.6.5. RESTORATION.** Promptly after completion of usage of an Access Area, the Accessing Lot Owner or occupant must thoroughly clean the Access Area and repair and restore same to substantially the same condition that existed at the time of commencement of usage; provided, such obligation for restoration does not apply to any structures or Improvements which have been placed in the Access Area without the written approval of the Architectural Control Committee.

**2.6.6. BLANKET ACCESS EASEMENT.** The Association and the Architectural Control Committee have a continuing non-exclusive easement upon, over, under and across each Lot, and as to the exterior of the Residential Dwelling and garage thereon, and as to the exterior and interior of any other Improvement thereon, to the extent reasonably necessary for the performance of any of the functions or duties of the Association or Architectural Control Committee or exercise of any of their rights under this Declaration. Prior to exercise of such easement rights written notice must be given to the Owner or occupant of the affected Lot stating the expected date of commencement of usage, the nature of the intended use and anticipated duration of such usage. The notice may be given in any manner as permitted by Section 2.6.2. In case of an emergency the right of entry and usage will be immediate without notice, but in such case notice as aforesaid must be given as reasonably soon as practicable. Provided however, the Association is not required to provide prior written notice to go onto a Lot to perform landscaping and lawn maintenance.

## **SECTION 2.7. GOVERNMENTAL FUNCTIONS, UTILITIES AND OTHER SERVICES.**

**2.7.1. GOVERNMENTAL FUNCTIONS; REMOVAL OF OBSTRUCTIONS.** Blanket non-exclusive easements and rights-of-way are hereby granted to all applicable governmental authorities, to all police, fire protection, ambulance and other emergency vehicles, to garbage and trash collection vehicles and other service vehicles, to the United States Post Office and similar services, and to the respective agents and employees of all of the foregoing, for access, ingress and egress upon, over and across any portion of each Lot and throughout the Subdivision for purposes of the performance of any official business without liability of any kind. APPLICABLE GOVERNMENTAL AUTHORITIES AS AFORESAID ARE ALSO SPECIFICALLY AUTHORIZED TO REMOVE OBSTRUCTIONS IF NECESSARY FOR EMERGENCY AND SERVICE VEHICLE ACCESS.

RP-2017-459007

**2.7.2. OTHER EASEMENTS.** The Association has the right to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public, quasi-public or private utility purposes, including, without limitation, gas, electricity, telephone, sanitary or storm, cable television and similar services, along, over, above, across and under the Subdivision and any Lot; provided, such additional easements are not located in such manner as to encroach upon the footprint or foundation of any then-existing building (including any Residential Dwelling) or any swimming pool. Any such easement is not effective unless and until notice thereof is filed in the Official Public Records of Real Property of Harris County, Texas.

**2.7.3. EASEMENTS PERPETUAL AND NOT CONVEYED.** Title to any Lot conveyed by contract, deed or other conveyance is subject to all easements of record and as otherwise established by this Declaration, and may not be held or construed in any event to include the title to any easement established by this Declaration, including but not limited to any roadways or any drainage, water, gas, sewer, storm sewer, electric light, electric power, or telephone way or any pipes, lines, poles, or conduits on or in any utility facility, gates, service equipment or appurtenances thereto. Easement rights established by or obtained pursuant to this Declaration may not, once established or obtained, be adversely affected by any amendment of this Declaration. The foregoing does not limit subsequent abandonment or other modification of easement rights in accordance with applicable instruments covering any easement, by consent or agreement of the affected parties, or as otherwise provided by law.

**2.7.4. MAINTENANCE OF UTILITIES REQUIRED.** All utility services intended to be provided to each Residential Dwelling as originally constructed, including without limitation water, sewage, electric and gas services, must be maintained by the Owner at all times when a Residential Dwelling is occupied.

**2.7.5. PRIVATE UTILITY LINES.** All electrical, telephone and other utility lines and facilities which are located on a Lot and which are not owned and maintained by a governmental entity or a utility company must be installed underground unless otherwise approved in writing by the Architectural Control Committee, and must be maintained at all times by the Owner of the Lot upon which same is located.

**2.7.6. UTILITY EASEMENTS.** Declarant reserves the utility easements, roads and rights-of-way shown on the Plat for the construction, addition, maintenance and operation of all necessary utility systems including systems of electric light and power supply, telephone service, cable television service, gas supply, water supply and sewer service, including systems for utilization of services resulting from advances in science and technology. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing, replacing, repairing and maintaining all utilities. By virtue of this easement, it is expressly permissible for the utility companies and other entities supplying services to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, under the land within the utility easements now or from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Meter racks are installed on Lots One (1), Twenty (20) and Twenty-One (21) in Block One (1), and Lot One (1) in Block Three (3), which meter racks shall be accessible pursuant to the Utility Easements described herein and on the Plat. Notwithstanding anything

RP-2017-459007

contained in this paragraph, no utilities or appurtenances thereto may be installed or relocated on the Subdivision until approved by Declarant or the Board.

**2.7.7. GATE EASEMENTS.** Declarant hereby creates easements upon, across, over and under Lots One (1), Twenty (20) and Twenty-One (21) of Block One (1) and Lot (1) of Block Three (3) for the purpose of installing, replacing, repairing and maintaining entry and exit gates to the Subdivision, including a pedestrian access gate, and related equipment for the operation of such gates.

## **SECTION 2.8. COMMUNITY PROPERTIES.**

**2.8.1. COMMUNITY PROPERTIES.** Owners of Lots in the Subdivision are notified that there exist Community Properties within the Subdivision which may be restricted to landscape, open space, parking, and/or recreational purposes. Owners of Lots within the Subdivision hereby agree to hold harmless Declarant, the Association, and their respective agents, successors and assigns and release them from any liability for the placement of, construction, design, operation, and maintenance of the Community Properties, and agree to indemnify the parties released for any incidental noise, lighting, odors, parking, and/or traffic which may occur in the normal operation of the Community Properties.

Owners whose Lots are adjacent to or abut Community Properties must take care and may not permit any drainage pipes or conduits, grass clippings, dead plants or grass, trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate or penetrate the Community Properties. An Owner who permits or causes such infiltration and penetration must indemnify and hold harmless the Association for all costs of clean up, repair and remediation necessary to restore the Community Properties to their condition immediately prior to said infiltration and penetration. Each Owner hereby acknowledges that the Association, its directors, officers, managers, agents, or employees, Declarant or any representative of Declarant have made no representations or warranties, nor has such Owner or any tenant, guest or invitee of such Owner relied upon any representations or warranties, expressed or implied, relative to the Community Properties.

## **ARTICLE III Maintenance**

### **SECTION 3.1. ASSOCIATION MAINTENANCE RESPONSIBILITIES.**

**3.1.1. GENERAL.** The Association will maintain, repair and replace the Community Properties and keep same in good repair. This maintenance includes, without limitation, maintenance, repair, and replacement of all landscaping and Improvements situated on the Community Properties. The foregoing does not include any residential use area which is enclosed by fencing (unless otherwise determined by the Architectural Control Committee as provided in Section 3.1.2). The Board of Directors has the authority to determine whether and to what extent maintenance, repair and replacement of landscaping and Improvements on the Community Properties is necessary and its reasonable good faith determination is conclusive and binding on all parties.



**3.1.2. FACILITIES OR SERVICES.** The Association will maintain such properties, real or personal, and such other facilities, services and Improvements as may be required by governmental authorities, any municipal utility districts or other utility providers, any special tax and development districts, and any other similar entities, such maintenance to be in accordance with applicable contracts, agreements, ordinances, rules, regulations and decisions of such authorities.

- (a) Access Gates. The Association will repair, maintain, and replace the access gates and related equipment allowing access to the Subdivision, within the reasonable discretion of the Association acting by and through its Board. The cost associated with such access gates and related components including, but not limited to, the electrical and operational expenses associated therewith is a common expense payable through the Annual Maintenance Charge.
- (b) Private Drives. The Association will repair, maintain, and replace the Private Drives within the reasonable discretion of the Association acting by and through its Board. The costs associated with such expenses are common expenses payable through the Annual Maintenance Charge.

**3.1.3. OWNER'S LIABILITY FOR PAYMENT OF ASSOCIATION COSTS.** Each Owner, and the Owner's family members, tenants and guests, are expressly prohibited from doing anything which could or does (i) increase the Association's costs of insurance or result in cancellation or diminution in insurance coverage, (ii) cause damage to any Community Properties, or (iii) increase costs of maintenance, repair, replacement, management, operation or discharge of any other obligations of the Association regarding the Community Properties, or any other areas maintained by the Association. Regardless of availability of insurance coverage, the Association may charge to each responsible Owner, as a specific assessment, all increased costs and all other damages resulting, directly or indirectly, from the acts or omissions of an Owner, or the Owner's family members, tenants and guests, in violation of the foregoing provisions.

**SECTION 3.2. OWNER MAINTENANCE RESPONSIBILITIES.**

**3.2.1. GENERAL MAINTENANCE.** All maintenance of each Lot and all Improvements thereon is the sole responsibility of the Owner thereof. Each Owner must maintain their Lot and all Improvements thereon at all times in such manner as to obtain and maintain Prevailing Community Standards on a continuing basis as may be more specifically determined by this Declaration and other Association dedicatory instruments, including as determined from time to time by any duly adopted Architectural Guidelines and Rules and Regulations. Without limitation of the foregoing, each Owner must maintain, at each Owner's sole cost and expense, the interior of the Owner's Residential Dwelling and garage, including all fixtures, equipment, appliances, things and devices located therein. MAINTENANCE WHICH AFFECTS THE EXTERIOR APPEARANCE OF A RESIDENTIAL DWELLING OR GARAGE IS SUBJECT TO APPLICABLE PROVISIONS OF ARTICLE IV REGARDING ARCHITECTURAL CONTROL COMMITTEE APPROVAL.

RP-2017-459007

**3.2.2. RESIDENTIAL DWELLINGS AND OTHER IMPROVEMENTS.** Each Owner must maintain the exterior of each Owner's Residential Dwelling, garage, and all other buildings, structures, fences (excluding Perimeter Fencing), walls, recreational equipment and Improvements located upon each Owner's Lot, in an attractive and well maintained condition, including proper maintenance and repair as needed of paint, bricks, stucco, siding, roofs, rain gutters, downspouts, exterior walls, driveways, parking areas and all other exterior portions of the Owner's Residential Dwelling and garage. Without limitation of the foregoing, each Owner must provide proper repair and maintenance as and when needed as follows:

- (a) The exterior paint on each Owner's Residential Dwelling must be maintained so that no portion thereof is noticeably peeling or cracking, and all painted portions remain neat and free of mildew and discoloration. NO CHANGE IN THE EXTERIOR COLOR SCHEME OF A RESIDENTIAL DWELLING AS ORIGINALLY CONSTRUCTED IS PERMITTED WITHOUT PRIOR WRITTEN APPROVAL FROM THE ACC.
- (b) The windows must be maintained so that no caulking thereon is chipped or cracked and no window panes are cracked or broken.
- (c) All exterior doors, including garage doors, must be maintained, repaired, replaced and/or repainted as needed to prevent a deteriorated or unsightly appearance, and maintained in proper working condition, including replacement as needed of damaged or dented garage door panels and any cracked or broken glass in any door.
- (d) The exterior woodwork on each Owner's Residential Dwelling, and all windowsills, door jams and thresholds, framing, hinges, latches and locks, must be maintained so that it remains whole, sound, neat and fully operational.
- (e) The roof on each Owner's Residential Dwelling must be maintained to prevent sagging and leaks. All shingles must be properly secured. Curled or damaged shingles must be replaced. No worn areas or holes are permitted to remain, and the structural integrity and exterior appearance of the roof must be maintained. The appearance of the roof may not be changed by any such maintenance without the express written approval of the Architectural Control Committee.
- (f) The rain gutters and downspouts on each Owner's Residential Dwelling, if any, must be maintained so that all are properly painted or treated to prevent rust and corrosion, properly secured to roof, eaves, gables or exterior walls (as the case may be), maintained without holes, and promptly repaired or replaced if dented or otherwise damaged.
- (g) All concrete areas on each Owner's Lot, including sidewalks and driveway, must be maintained so that all cracks are appropriately patched or surfaced as they appear, expansion joints are maintained, repaired or replaced, as needed, and oil, grease and other stains are removed as they appear, and all such areas must be kept free of weeds, grass or other vegetation.

RP-2017-459007

- (h) Except as otherwise provided as to Perimeter Fencing, all fences or walls erected on each Owner's Lot must be maintained as provided in Section 2.5.
- (i) All recreational equipment approved by the Architectural Control Committee, must be maintained to prevent any unsightly condition, including for example but without limitation, proper maintenance of swing sets to prevent rust and corrosion, and proper maintenance of basketball goals to prevent rust and corrosion and replacement as needed of torn or worn nets.

**3.2.3. WALLS.**

- (a) **General Rules.** Except as otherwise provided in this paragraph (d), the responsibility for the maintenance and repair of a Party Wall is the joint responsibility of the Owners of the adjacent Residential Dwelling. The cost to maintain and repair a Party Wall must be shared equally by the Owners of the adjacent Residential Dwellings. General rules of law regarding Party Walls and liability for property damage due to negligence and willful acts or omissions apply.
- (b) **Damage or Destruction.** If a Party Wall is damaged or destroyed by fire or other casualty, the cost must be shared equally by the Owners of the adjacent Residential Dwellings.
- (c) **Individual Liability.** An Owner of a Residential Dwelling who, by his negligence or willful act, causes a Party Wall to be damaged or exposed to the elements must bear the entire cost of performing whatever work is necessary to repair the Party Wall and protect the Party Wall from the elements.
- (d) **Right of Contribution.** The right of an Owner of a Residential Dwelling to contribution from the Owner of an adjacent Residential Dwelling relating to the Party Wall separating the two (2) Residential Dwellings is appurtenant to the land and passes to the Owner's successors in title.

**3.2.4. UTILITIES.** The Owner of each Lot must maintain in proper working order, and on a continuing basis, all sanitary sewer lines and facilities, drainage or storm water lines and facilities, water pipelines, water sprinkler system, water meters and related water lines and facilities, electrical and gas lines, meters and facilities, telephone and any other telecommunication lines, devices or facilities, and all other facilities, utilities and services which serve the Owner's Lot (the "**Owner Utilities**"), regardless of the location of the Owner Utilities, save and except to the extent maintenance of any Owner Utilities is performed by any governmental entity or utility company. Utilities which service more than one (1) Lot must be maintained, repaired and replaced by all of the Owners of the multiple Lots served, pro rata, or in such other proportions as determined by the Architectural Control Committee upon written request when the circumstances clearly demonstrate that a different manner of allocation is required.

**3.2.5. LANDSCAPING.** All grass, shrubbery, trees, flower beds, vegetation and all other landscaping, either natural or artificial, on a Lot must be maintained by the Owner of the Lot at all times. Such maintenance must be in accordance with the seasons, as reasonably necessary to obtain and maintain on a consistent and continuing basis a sanitary, healthful and attractive condition and appearance, in accordance with the Prevailing Community Standards, and to eliminate any condition which may create any unsanitary condition or become a harborage for rodents, vermin or other pests. If a Lot is located adjacent to a street but the Lot line does not extend to the street curb, the Owner must maintain all landscaping between the Owner's Lot line and the street curb unless the Architectural Control Committee is otherwise required hereby or otherwise elects to maintain said area.

**3.2.6. ADJACENT LOTS.** No Owner or occupant of a Lot may allow a condition to exist or fail or neglect to provide any maintenance which materially and adversely affects an adjacent Lot, any Community Properties, or any Improvements on such Lot or the Community Properties.

**3.2.7. RIGHT OF ENTRY AND INSPECTION; OWNER'S DEFAULT.** In the event the Board determines that an Owner has failed or refused to properly discharge the Owner's maintenance obligations as provided in this Article, the Board may conduct inspections of any affected Lot, the exterior of the Residential Dwelling and all structures and Improvements thereon (a "**Compliance Inspection**") and/or perform the repair, replacement or maintenance (the "Required Work") in accordance with this Section. The Board must give written notice of intent to conduct a Compliance Inspection and/or to perform Required Work. The notice may be given by posting on the front door of the Residential Dwelling at the applicable Lot regardless of any other mailing address otherwise maintained by the Owner. Except in the case of an emergency, the notice must give the applicable Owner ten (10) days to schedule a Compliance Inspection and/or perform Required Work [or to commence and thereafter proceed with diligence to completion of Required Work which cannot be reasonably completed in ten (10) days], failing which the Board may proceed without further notice. In the case of an emergency, the Board may proceed immediately with any Required Work required to abate the emergency. All costs and expenses of conducting a Compliance Inspection as to which a violation is determined to exist and all costs and expenses of Required Work performed by the Board will be charged to the Owner of the applicable Lot and, if not paid within ten (10) days of the notice of same is given to the applicable Owner, the costs will be added to the Owner's assessment and secured by the lien provided in Article VI of this Declaration. The good faith determination by the Board as to the need for a Compliance Inspection and as to all aspects of Required Work is final and conclusive, and extends to anything or condition as to such Lot or which adversely affects any other Lot or Community Properties. The Association is not liable for trespass or any other tort or claim for damages in connection with any actions or failure to act pursuant to this Section.

**ARTICLE IV**  
**Architectural Approval**

**SECTION 4.1. ARCHITECTURAL CONTROL COMMITTEE.** The Architectural Control Committee is comprised of at least three (3) members, all of whom are appointed by Declarant, except as otherwise set forth herein. Declarant has the continuing right to

RP-2017-459007

appoint all three (3) members until the earlier of (a) the date that the Declarant Control Period terminates, or (b) the date Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board will have the authority to appoint all three (3) members of the Architectural Control Committee. During the Declarant Control Period, members of the Architectural Control Committee are not required to be Members of the Association. Upon termination of the Declarant Control Period, all members of the Architectural Control Committee are required to be Members of the Association. Members of the Architectural Control Committee appointed by Declarant may be removed at any time and will serve until resignation or removal by Declarant. Members of the Architectural Control Committee appointed by the Board may be removed at any time by the Board, and will serve for such term as may be designated by the Board or until resignation or removal by the Board. Notwithstanding any provision in this Declaration to the contrary, if, upon the termination of the Declarant Control Period, there are Lots on which a Residential Dwelling has not been constructed, the authority to approve or disapprove plans for a Residential Dwelling to be constructed on any such Lot will remain vested in Declarant.

**SECTION 4.2. APPROVAL OF IMPROVEMENTS REQUIRED.** In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the Subdivision, to establish and preserve a harmonious design for the development and to protect and promote the value of the Subdivision, the Lots and Residential Dwellings and all Improvements thereon, no Improvement of any nature may be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on a Lot by any Owner, other than Declarant, which affect the exterior appearance of a Lot or the Residential Dwelling or other Improvement on a Lot unless plans and specifications therefor have been submitted to and approved by the Architectural Control Committee in accordance with the terms and provisions of this Article. Without limiting the foregoing, the construction and installation of a Residential Dwelling, sidewalk, driveway, deck, patio, landscaping, swimming pool, playhouse, awning, wall, fence, exterior light, or any other Improvement, may not be undertaken, nor may any exterior addition to or change or alteration be made (including, without limitation, painting or staining of any exterior surface) to a Residential Dwelling or other Improvement, unless Plans have been submitted to and approved by the Architectural Control Committee in accordance with the terms and provisions of this Article.

The Architectural Control Committee is hereby authorized and empowered to approve or disapprove all Plans for the construction of a Residential Dwelling or other Improvement on a Lot. Prior to the commencement of a Residential Dwelling or other Improvements on a Lot, the Owner thereof must submit to the Architectural Control Committee Plans and related data for each proposed Improvement.

The Architectural Control Committee, in its sole discretion, will determine whether the Plans and other data submitted by an Owner for approval are acceptable. The Board may establish and change from time to time, if deemed appropriate, a reasonable fee sufficient to cover the expense of reviewing Plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such Plans and to monitor and otherwise enforce the terms hereof (the "**Submission Fee**").

RP-2017-459007

The Architectural Control Committee has the right to disapprove any Plans upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations; any failure to comply with any of the provisions of this Declaration or Architectural Guidelines; failure to provide requested information; objection to exterior design, appearance or materials; objection on the ground of incompatibility of any such proposed Improvement with the scheme of development proposed for the Subdivision; objection to the location of any proposed Improvement; objection to the landscaping plan for such Lot; objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of the Residential Dwelling or other Improvement; or any other matter which, in the sole judgment of the Architectural Control Committee, would render the proposed Residential Dwelling or other Improvement inharmonious with the general plan of development contemplated for the Subdivision. The Architectural Control Committee has the right to approve any submitted Plans with conditions or stipulations by which the Owner of such Lot is obligated to comply and must be incorporated into the Plans for such Residential Dwelling or other Improvement. Approval of Plans by the Architectural Control Committee for Improvements on a particular Lot is not deemed an approval nor does such approval otherwise obligate the Architectural Control Committee to approve similar Plans of any of the features or elements of proposed Improvements for any other Lot within the Subdivision.

Any revisions, modifications or changes in any Plans previously approved by the Architectural Control Committee must be approved by the Architectural Control Committee in the same manner specified above.

If construction of a Residential Dwelling or other Improvement has not substantially commenced (e.g., by clearing and grading, pouring of footing and otherwise commencing related construction work) within ninety (90) days of approval by the Architectural Control Committee of the Plans for such Residential Dwelling or other Improvement, then no construction may be commenced (or continued) on such Lot and the Owner of such Lot is required to resubmit all Plans for a Residential Dwelling or other Improvement to be constructed on the Lot to the Architectural Control Committee for approval in the same manner specified above.

The duties of the Architectural Control Committee may be assigned to an architect or other third party professional as deemed appropriate by the Board of Directors. The assignment may include all duties of the Architectural Control Committee or only selected duties of the Architectural Control Committee. For example, the Board of Directors may choose to assign only the duties relating to the review and approval or disapproval of Plans relating to Residential Dwellings to be constructed on Lots. In the event of such an assignment, the architect or other third party professional may be compensated in the manner the Board of Directors determines to be appropriate which may include the direct payment of the applicable Submission Fee to the architect or other third party professional by the person or entity submitting Plans for approval or disapproval.

**SECTION 4.3. ADDRESS OF COMMITTEE.** The address of the Architectural Control Committee is the same as that set forth in the Association's recorded management certificate, unless otherwise provided in a recorded instrument.

RP-2017-459007

**SECTION 4.4. ARCHITECTURAL GUIDELINES.** The Architectural Guidelines, if any, will serve as a minimum guideline only and the Architectural Control Committee may impose other requirements in connection with its review of any proposed Improvements. If the recorded Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, without directly conflicting with the provisions of the Declaration, the provisions of the recorded Architectural Guidelines control, it being the intent of the Declarant to allow the Architectural Guidelines to supplement the Declaration on matters generally relating to architectural control and the discretionary authority vested in the Architectural Control Committee.

**SECTION 4.5. FAILURE OF COMMITTEE TO ACT ON PLANS.** Any request for approval of a proposed Improvement on a Lot is deemed to be denied by the Architectural Control Committee unless the Architectural Control Committee approval is transmitted to the Owner by the Architectural Control Committee within forty-five (45) days after the date of actual receipt by the Architectural Control Committee of the request at its office. If the Architectural Control Committee requests additional information or materials from an applicant in writing within the specified forty-five (45) day period, the applicant's request is also deemed to be disapproved, whether so stated in the written communication or not, and a new forty-five (45) day period for review will not commence until the date of actual receipt by the Architectural Control Committee of the requested information or materials. No approval will permit an Owner to construct or maintain any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines, the Architectural Control Committee at all times retaining the right to object to any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines, unless a variance has been granted by the Architectural Control Committee in accordance with Section 4.12 of this Declaration. After the date that the Board of Directors obtains the authority to appoint the members of the Architectural Control Committee, an applicant has the right to appeal an adverse decision of the Architectural Control Committee to the Board of Directors. The Board of Directors has the authority to adopt procedures for appeals of decisions of the Architectural Control Committee. In the event of an appeal, the decision of the Architectural Control Committee will remain in effect during the pendency of the appeal; the decision of the Board of Directors is conclusive and binding on all parties.

**SECTION 4.6. PROSECUTION OF WORK AFTER APPROVAL.** After approval of any proposed Improvement on a Lot, the proposed Improvement must be prosecuted diligently and continuously and must be completed within the time frame approved by the Architectural Control Committee and in conformity with the description of the proposed Improvement in the Plans submitted to and approved by the Architectural Control Committee. No building materials may be placed upon a Lot until the Owner is ready to commence construction. Owners must keep the job site and all surrounding areas clean during the progress of construction. All construction trash, debris and rubbish on each Lot must be properly disposed of at least weekly. In no event may any used construction material be buried in a Lot or beneath a Residential Dwelling or other Improvement. No Owner may allow dirt, mud, gravel or other substances to collect or remain on any part of the Community Properties. No Improvement on a Lot is deemed completed until the exterior fascia and trim on the structure has been applied and finished and all construction materials and debris have been cleaned up and removed from the Lot and all rooms in the Residential Dwelling, other than

RP-2017-459007

attics, have been finished. Removal of materials and debris must occur not later than thirty (30) days following completion of the exterior of the Residential Dwelling or other Improvement.

**SECTION 4.7. NO IMPLIED WAIVER OR ESTOPPEL.** No action or failure to act by the Architectural Control Committee or by the Board of Directors will constitute a waiver or estoppel with respect to future action by the Architectural Control Committee or the Board of Directors. Specifically, the approval by the Architectural Control Committee of any Improvement on a Lot is not deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement on another Lot or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement on a Lot.

**SECTION 4.8. POWER TO GRANT VARIANCES.** Declarant, during the Declarant Control Period, and thereafter, the Architectural Control Committee, may authorize variances from compliance with any of the provisions of Article II of this Declaration (except for the provisions relating to single family residential construction and use), including restrictions upon placement of structures, the time for completion of construction of Improvements on a Lot, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and become effective when, during the Declarant Control Period, signed on behalf of Declarant, and thereafter, signed by at least a majority of the members of the Architectural Control Committee. If any such variance is granted, no violation of the provisions of this Declaration is deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance will not (a) operate to waive any of the provisions of this Declaration or the Architectural Guidelines for any purpose except as to the particular property and particular provision thereof covered by the variance, (b) affect the jurisdiction of the Architectural Control Committee other than with respect to the subject matter of the variance, or (c) affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned.

**SECTION 4.9. COMPENSATION OF ARCHITECTURAL CONTROL COMMITTEE MEMBERS.** The members of the Architectural Control Committee are entitled to reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve, but they will not otherwise be compensated by the Association. Provided that, if the duties of the Architectural Control Committee are assigned, in whole or in part, to an architect or other third party professional, the architect or other third party professional may be compensated for his/her services.

**SECTION 4.10. ESTOPPEL CERTIFICATES.** The Board of Directors, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Control Committee, must furnish a certificate with respect to the approval or disapproval of any Improvement on a Lot or with respect to whether any Improvement on a Lot was constructed in compliance with the provisions of this Declaration and the Architectural Guidelines. Any person, without actual notice of any falsity or inaccuracy of such a certificate, is entitled to rely on such certificate with respect to all matters set forth therein.

RP-2017-459007



**SECTION 4.11. NONLIABILITY FOR ARCHITECTURAL CONTROL COMMITTEE ACTION.** None of the members of the Architectural Control Committee, the Association, any member of the Board of Directors, or Declarant are liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Control Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Architectural Control Committee will not inspect, guarantee or warrant the workmanship of the Improvement, including its design, construction, safety, whether structural or otherwise, conformance with building codes, or other governmental laws or regulations or whether the Improvement is suitable or fit for its intended purpose. Furthermore, none of the members of the Architectural Control Committee, any member of the Board of Directors, or Declarant will be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such other individuals were acting on behalf of the Association, the Architectural Control Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board, the Architectural Control Committee, or their officers, agents, members, or employees will be liable for any incidental or consequential damages for failure to inspect any Improvement or portion thereof, or for failure to repair or maintain the same.

**SECTION 4.12. CONSTRUCTION PERIOD EXCEPTION.** During the course of actual construction of any permitted Improvement on a Lot, and provided construction is proceeding with due diligence, the Architectural Control Committee may temporarily suspend the provisions of Article II contained in this Declaration as to the Lot upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that during the course of any such construction, nothing may be done that will result in a violation of any of the provisions of this Declaration upon completion of construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Subdivision.

**SECTION 4.13. SUBSURFACE CONDITIONS.** The approval of Plans by the Architectural Control Committee for a Residential Dwelling or other Improvement on a Lot is not to be construed in any respect as a representation or warranty by the Architectural Control Committee to the Owner submitting such Plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvement contemplated by such Plans. It is the sole responsibility of each Owner or the Builder to determine the suitability and adequacy of the surface and subsurface conditions of a Lot for the construction of any contemplated Improvement thereon.

**SECTION 4.14. LANDSCAPING.** No landscaping, grading, excavation or fill work of any nature should be implemented or installed by an Owner on a Lot unless and until landscaping plans therefore have been submitted to and approved by the Architectural Control Committee in accordance with the provisions of this Article IV.

Pursuant to Section 202.007 of the Texas Property Code, the following Guidelines are specifically applicable to drought-resistant landscaping or water-conserving natural turf on Lots in the Subdivision:

RP-2017-459007

- (a) **Architectural Control Committee Approval.** The installation of drought-resistant landscaping and water-conserving natural turf requires the prior written approval of the Architectural Control Committee.
- (b) **Criteria.** A proposed installation of drought-resistant landscaping and water-conserving natural turf will be reviewed by the Architectural Control Committee to ensure, to the extent practicable, maximum aesthetic compatibility with other landscaping in the Subdivision.

**ARTICLE V**  
**Management and Operation of Subdivision**

**SECTION 5.1. NON-PROFIT CORPORATION.** The Association has been organized, and is governed by its Certificate of Formation and Bylaws. The Association has all duties, obligations, benefits, liens, and rights set forth in this Declaration.

**SECTION 5.2. MANAGEMENT BY ASSOCIATION.** The affairs of the Subdivision are administered by the Association. The Association has the right, power and obligation to provide for the management, administration, and operation of the Subdivision as herein provided for and as provided for in the Certificate of Formation, Bylaws, and Rules and Regulations. The business and affairs of the Association is managed by its Board of Directors. The Declarant will determine the number of Directors and appoint, dismiss and reappoint all of the members of the Board during the Declarant Control Period, other than Board members elected by Owners other than Declarant as provided in the Bylaws of the Association. The Board may engage the Declarant or any entity, whether or not affiliated with Declarant, to perform the day to day functions of the Association and to provide for the management, administration and operation of the Subdivision. The Association, acting through the Board, is entitled to enter into such contracts and agreements concerning the Subdivision as the Board deems reasonably necessary or appropriate, in the Board's sole discretion, to manage and operate the Subdivision in accordance with this Declaration, including without limitation, the right to enter into agreements relating to maintenance, trash pick-up, repair, administration, patrol services, traffic, operation of recreational facilities, or other matters affecting the Subdivision.

**SECTION 5.3. MEMBERSHIP IN ASSOCIATION.** Each Owner of a Lot, whether one or more persons or entities, will, upon and by virtue of becoming such Owner, automatically become and remain a Member of the Association until his ownership ceases for any reason, at which time his membership in the Association will automatically cease. Membership in the Association is mandatory, is appurtenant to ownership of a Lot, automatically follows the ownership of each Lot, and is not to be separated from the ownership of a Lot.

**SECTION 5.4. VOTING OF MEMBERS.** Subject to any limitations set forth in this Declaration or the Bylaws, each Member other than Declarant is a Class A Member entitled to one (1) vote per Lot owned on each matter submitted to a vote of the Members. Declarant is a Class B Member having ten (10) votes for each Lot owned. No Member is entitled to vote at any meeting of the Association until such Owner has presented evidence of ownership of a Lot in the Subdivision to the Secretary of the Association. In the event that ownership interests in a Lot are

owned by more than one Class A Member of the Association, such Class A Members must exercise their right to vote in such manner as they may among themselves determine, but in no event may more than one (1) vote be cast for a Lot. Such Class A Members must appoint one of them as the Class A Member who is entitled to exercise the vote of that Lot at any meeting of the Association. Such designation must be made in writing to the Board of Directors and will be revocable at any time by actual written notice to the Board. The Board is entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Lot is owned by more than one Class A Member of the Association, and no single Class A Member is designated to vote on behalf of the Class A Members having an ownership interest in such Lot, then the Class A Member exercising the vote for the Lot is deemed to be designated to vote on behalf of the Class A Members having an ownership interest in the Lot. All Members of the Association may attend meetings of the Association and all Members may exercise their vote at such meetings either in person or proxy. Occupants of Lots who are not Members of the Association may attend meetings of the Association and serve on committees (except the Architectural Control Committee, after Class B membership in the Association ceases to exist). Fractional votes and split votes will not be permitted. The decision of the Board of Directors as to the number of votes which any Member is entitled to cast, based upon the number of Lots owned by him, is conclusive and binding on all parties. The holder of a future interest in a Lot is not an Owner with voting rights. Further, a person or entity that holds an interest merely as security for the performance of an obligation is not an Owner.

Class B membership in the Association will cease and be converted to Class A membership upon the termination of the Declarant Control Period, or on any earlier date selected by Declarant and evidenced by a written notice recorded in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 5.5. BYLAWS.** The Association will adopt Bylaws to govern the Association. The Bylaws may not conflict with the provisions of this Declaration or applicable law.

**SECTION 5.6. PROFESSIONAL MANAGEMENT.** The Board has the authority to retain, hire, employ or contract with such professional management companies or personnel as the Board deems appropriate to perform the day to day functions of the Association and to provide for the administration and operation of the Subdivision as provided for herein and as provided for in the Bylaws.

**SECTION 5.7. BOARD ACTIONS IN GOOD FAITH.** Any action, inaction or omission by the Board made or taken in good faith will not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party.

**SECTION 5.8. STANDARD OF CONDUCT.** The Board of Directors, the officers of the Association, and the Association has the duty to represent the interests of the Owners in a fair and just manner. Any act or thing done by any Director, officer or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the Declaration, Certificate of Formation, Bylaws, Architectural Guidelines, and the laws of the State of Texas, must be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing is not a breach

RP-2017-459007

of duty on the part of the Director, officer or committee member if taken or done within the exercise of their discretion and judgment. The Business Judgment Rule means that a court may not substitute its judgment for that of the Director, officer or committee member. A court may not re-examine the decisions made by a Director, officer or committee member by determining the reasonableness of the decision as long as the decision is made in good faith and in what the Director, officer, or committee member believed to be in the best interest of the Association.

**SECTION 5.9. IMPLIED RIGHTS; BOARD AUTHORITY.** The Association may exercise any right or privilege given to it expressly by the provisions of this Declaration or its Certificate of Formation or Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board of Directors without a vote of the membership except where any provision in this Declaration, the Certificate of Formation, the Bylaws or applicable law specifically requires a vote of the membership.

The Board may institute, defend, settle or intervene on behalf of the Association in litigation, administrative proceedings, binding or non-binding arbitration or mediation in matters pertaining to (a) Community Properties or other areas in which the Association has or assumes responsibility pursuant to the provisions of this Declaration, (b) enforcement of this Declaration or any Rules and Regulations or the Architectural Guidelines or (c) any other civil claim or action. However, no provision in this Declaration or the Certificate of Formation or Bylaws is construed to create any independent legal duty to institute litigation on behalf of or in the name of the Association.

## ARTICLE VI

### Maintenance Expense Charge and Maintenance Fund

**SECTION 6.1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENT.** Each Lot in the Subdivision is hereby subjected to an Annual Maintenance Charge (as defined below) and other assessments and charges set forth below, and each Owner of a Lot by acceptance of a deed therefor, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) an Annual Maintenance Charge, (2) Special Assessments, (3) Capitalization Fee, and (4) such other assessments and charges to be established and collected as set forth in this Declaration (collectively, "**Assessment(s)**"). The Assessments and other charges set forth in this Declaration, together with late fees, interest costs, court costs and reasonable attorney's fees, are a charge on the Lot and are a continuing lien upon the Lot against which each such Assessment is made. The Assessments, together with late charges, interest, costs, and reasonable attorney's fees, are the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such Assessments accrued, but no Owner is personally liable for the payment of any Assessments made or becoming due and payable after his ownership ceases. No Owner is exempt or excused from paying any such Assessments by waiver of the use or enjoyment of the Community Properties, or any part thereof, or by abandonment of the Owner's Lot or interest therein.

The purchaser of a Lot is required to contact the Association and/or the Association's property manager, at the address set forth in the Association's recorded management certificate, before the sale of a Lot is closed to: (1) provide notice of a change of ownership information; (2)

arrange for payment of the Administrative Fee as defined in Section 6.11 herein; and (3) determine the status of the Assessment account of the Lot being purchased. Nothing relieves the purchaser of a Lot from liability for the payment of Administrative Fees and any past due Assessments, late charges, interest costs, court costs, or attorney's fees owed on the Assessment account of the Lot on the date title is acquired from the prior Owner.

**SECTION 6.2. SUBORDINATION OF THE ASSOCIATION'S LIEN.** The Association does hereby agree and declare that the lien for the Assessment provided for herein, as it applies to a Lot, is second, subordinate and inferior to all liens granted or created at the request of the Owner of a Lot to secure payment of monies advanced or to be advanced to purchase the Lot.

**SECTION 6.3. PURPOSE OF ASSESSMENT.** The Assessments levied by the Association must be deposited in the Maintenance Fund and used for the benefit of the Subdivision. The funds of the Association must be expended for costs and maintenance in areas which include, but are not limited to the following: street lighting, landscaping and maintenance of the Community Properties; caring for vacant Lots; insurance; payment of legal and all other expenses incurred in connection with the collection and accounting of the annual assessment levied by the Association; payment of legal and all other expenses incurred in the enforcement of all covenants and restrictions for the Subdivision; contracting for property management, independent auditor, and other services, and doing any other thing necessary or desirable which, in the opinion of the Board of Directors of Association serves to keep the Subdivision neat and in good order, or which the Board of Directors considers of general benefit to the owners or occupants of the Subdivision.

The judgment of the Board of Directors of the Association in the expenditure of said funds is final and conclusive so long as such judgment is exercised in good faith.

The Board of Directors of the Association is authorized to borrow money, without personal liability on the part of the members of the Board of Directors, giving as collateral, funds then or in the future paid into the Maintenance Fund.

**SECTION 6.4. BASIS AND MAXIMUM LEVEL OF ANNUAL ASSESSMENTS.** A maintenance charge is payable to the Association annually in advance of January 1 of each year (the "**Annual Maintenance Charge**"). The Annual Maintenance Charge in effect on the date of execution of this Declaration is \$1,200.00 per Lot. The Board of Directors of the Association, may, without a vote of the Members, increase the Annual Maintenance Charge at any regular meeting of the Board by an amount no more than fifteen percent (15%) above the maximum Annual Maintenance Charge for the previous year. The Annual Maintenance Charge may be increased more than fifteen percent (15%) above the maximum Annual Maintenance Charge for the previous year if approved by a vote of Members representing more than fifty percent (50%) of all the Lots within the Subdivision, voting in person or by proxy, at an annual or special meeting duly called for that purpose. In lieu of notice and a meeting of Members as provided in the Bylaws of the Association, a door-to-door canvas may be used to secure written approval of Members representing more than fifty percent (50%) of all the Lots within the Subdivision. This increase becomes effective on the date

RP-2017-459007

specified in the document evidencing such approval only after such document has been filed of record in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 6.5. UNIFORM RATE.** The rate of each Annual Maintenance Charge must be uniform as to each Lot.

**SECTION 6.6. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL MAINTENANCE CHARGE.** The Annual Maintenance Charge commences on each Lot on the date of closing of such Lot. An Owner's initial Annual Maintenance Charge must be made for the balance of the calendar year as determined on a pro-rata basis beginning on the closing date and is due and payable on the closing date. The Annual Maintenance Charge for any year after the first year is due and payable in advance on the first day of January. Any Owner who purchases a Lot or Lots after the first day of January in any year is personally responsible for a pro-rated Annual Maintenance Charge amount for the remainder of that year due upon purchase of such Lot.

At least thirty (30) days prior to the end of a calendar year, the Board of Directors must fix the Annual Maintenance Charge to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors has set for the Annual Maintenance Charge must be delivered to every Owner. Provided that, the failure to timely fix the amount of the Annual Maintenance Charge or to send written notice thereof to all Owners does not affect the authority of the Association to levy the Annual Maintenance Charge or to increase the Annual Maintenance Charge.

**SECTION 6.7. SPECIAL ASSESSMENTS.** If the Board at any time, or from time to time, determines that the Annual Maintenance Charges assessed for any period are insufficient to provide for the continued operation of the Subdivision or any other purposes contemplated by the provisions of this Declaration, then the Board has the authority to levy such special assessments ("**Special Assessments**") as it deems necessary to provide for such continued maintenance and operation. No Special Assessment is effective until the same is approved in writing by Members representing at least fifty percent (50%) of all the Lots within the Subdivision, or by the vote of not less than two-thirds (2/3) of the Members present and voting, in person or by proxy, at meeting of the Members called for that purpose at which a quorum is present. Any such Special Assessment is payable in the manner determined by the Board and the payment thereof may be enforced in the manner herein specified for the payment of the Annual Maintenance Charges. The amount of any Special Assessment levied against Lots must be uniform.

**SECTION 6.8. CAPITALIZATION FEE.** Each Owner, upon acquisition of title to a Lot, is obligated to pay a fee to the Association in an amount equal to fifty percent (50%) of the Annual Maintenance Charge then in effect for the purpose of capitalizing the Association (the "**Capitalization Fee**"). The Capitalization Fee is in addition to, not in lieu of, the Annual Maintenance Charge and is not considered an advance payment of the Annual Maintenance Charge. The Capitalization Fee is initially to be used by the Association to defray its initial operating costs and other expenses and later to ensure the Association has adequate funds to meet its expenses and otherwise, including contributions to the Association's reserve account. The Board of Directors has the authority to determine the extent to which Capitalization Fees

are used for operational expenses and for reserves, and its reasonable good faith determination is conclusive and binding on all parties.

**SECTION 6.9. EFFECT OF NONPAYMENT OF ASSESSMENTS.** The outstanding balance of any Assessments not paid within thirty (30) days of the due date will, without notice, bear interest from the original due date, at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, and such interest charge will be added to the assessment account of an Owner whose account is not fully paid on the first day of each month.

The Association may bring an action at law against the Owner personally obligated to pay the Assessment, late charges and interest, or foreclose the lien against the Lot by judicial foreclosure at any time after the Owner has failed to pay the Assessment and all accumulated costs, late charges and interest in full. No Owner may waive or otherwise avoid liability for the Assessments, late charges, costs or interest provided herein by non-use of the facilities or services provided by the Association or by the abandonment of his Lot.

**SECTION 6.10. PAYMENT OF ASSESSMENTS BY DECLARANT AND BUILDERS.** Lots owned by Declarant are exempt from Annual Maintenance Charge and Special Assessments levied by the Association during the Declarant Control Period. Provided that, during the Declarant Control Period, Declarant will pay any deficiency in the operating budget, less sums deposited in any reserve account established by the Association or otherwise set aside for reserves. A Builder must pay an amount equal to one-half (1/2) the applicable Annual Maintenance Charge on each Lot owned by the Builder. A Builder must also pay an amount equal to one-half (1/2) of the applicable Special Assessment for every Lot owned by the Builder.

**SECTION 6.11. ADMINISTRATIVE FEES AND RESALE CERTIFICATES.** The Board of Directors of the Association may establish and charge from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing information in connection with the sale of a Lot in the Subdivision and changing the ownership records of the Association ("**Administrative Fee**"); provided that, no Administrative Fee will be due and payable upon the conveyance of a Lot by Declarant to a Builder. An Administrative Fee must be paid to the Association or the managing agent of the Association, if agreed upon by the Association, upon each transfer of title to a Lot. The Administrative Fee must be paid by the purchaser of the Lot, unless otherwise agreed by the seller and purchaser of the Lot. The Association has the authority to establish and charge from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing a Resale Certificate in connection with the sale of a Lot. The fee for a Resale Certificate must be paid to the Association or the managing agent of the Association, if agreed to by the Association. The fee for a Resale Certificate is in addition to, not in lieu of, the Administrative Fee.

**SECTION 6.12. NOTICE OF SUMS OWING.** Upon the written request of an Owner, the Association must provide to such Owner a written statement setting out the then current total of all Assessments, if any, owing by such Owner with respect to his Lot. In addition to such Owner, the written statement from the Association so advising the Owner may also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, as same may

RP-2017-459007

be identified by said Owner to the Association in the written request for such information. The Association is entitled to charge the Owner a reasonable fee for such statement.

**ARTICLE VII**  
**Indemnity; Security; Insurance**

**SECTION 7.1. INDEMNITY OF ASSOCIATION.** Each Owner is responsible for any costs incurred as a result of such Owner's negligence or misuse or the negligence or misuse of his family, tenants, guests, invitees, agents, employees, or any resident or occupant of his Residential Dwelling, and by acceptance of a deed to a Lot does hereby indemnify the Association, its officers, directors and agents, and all other Owners against any such costs.

**SECTION 7.2. SECURITY. NEITHER THE ASSOCIATION, NOR ITS DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS AND ATTORNEYS, NOR THE DECLARANT, NOR ANY SUCCESSOR OF DECLARANT (COLLECTIVELY "ASSOCIATION AND RELATED PARTIES") WILL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE SUBDIVISION. THE ASSOCIATION AND RELATED PARTIES ARE NOT LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. ALL OWNERS AND OCCUPANTS OF A LOT, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF A LOT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION AND RELATED PARTIES ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF A RESIDENTIAL DWELLING, OR OWNER OR USER OF AN IMPROVEMENT, ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENTIAL DWELLINGS AND IMPROVEMENTS AND TO THE CONTENTS OF RESIDENTIAL DWELLINGS AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR OCCUPANT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE SUBDIVISION.**

**SECTION 7.3. ASSOCIATION INSURANCE.** The Board has the authority to determine whether or not to obtain insurance for the Association and, if insurance is obtained, the types and amounts thereof. In the event that insurance is obtained, the premiums for such insurance will be an expense of the Association to be paid out of the Maintenance Fund. Provided that, the Association must at all times maintain comprehensive general liability insurance insuring the Association, its respective directors, officers, managers, employees,

RP-2017-459007



agents and attorneys. The Association must also, at all times, maintain and directors' and officers' liability insurance.

**SECTION 7.4. INDIVIDUAL INSURANCE.** At his or her own expense, each Owner, tenant or other person occupying a Residential Dwelling is responsible for insuring the Lot and Residential Dwelling, its contents and furnishings with an insurance policy that provides for one hundred percent (100%) replacement cost value in the event of a casualty loss. Each Owner, tenant or other person occupying a Residential Dwelling is, at his or her own cost and expense, responsible for insuring against the liability of such Owner, tenant or occupant. Each Owner must provide to the Association, on an annual basis on a date determined by the Board of Directors, a certificate of insurance property executed by a duly authorized insurance company representative evidencing the existence of property insurance on the Owner's Residential Dwelling. Should an Owner fail to submit an adequate certificate of insurance after notice and an opportunity to cure, the Association has the right but not the obligation to purchase the requisite insurance coverage and submit an invoice to the Owner for payment of such costs. Should the Owner fail to reimburse the Association for said costs within thirty (30) days of the invoice, the Association may charge the invoiced amount to the Owner's account and the amount due will be secured by the Association's lien in the same manner as the Assessments as provided in Article VI.

**ARTICLE VIII**  
**Fire or Casualty: Rebuilding**

**SECTION 8.1. REBUILDING.** In the event of a fire or other casualty causing damage or destruction to the Residential Dwelling or other Improvement on a Lot, the Owner of such damaged or destroyed Residential Dwelling or Improvement must, within ninety (90) days after such fire or casualty, contract to repair or reconstruct the damaged portion of the Residential Dwelling or Improvement and must cause the Residential Dwelling or Improvement to be fully repaired or reconstructed in accordance with the original Plans therefor, or in accordance with new Plans presented to and approved by the Architectural Control Committee, and must promptly commence repairing or reconstructing such Residential Dwelling or Improvement, to the end that the Residential Dwelling or Improvement does not remain in a partly finished condition any longer than reasonably necessary for completion thereof. Alternatively, such damaged or destroyed Residential Dwelling or Improvement must be razed and the Lot restored as nearly as possible to its original condition within ninety (90) days of its damage or destruction. In the event that the repair and reconstruction of the Residential Dwelling or Improvement has not been commenced within ninety (90) days after such fire or casualty and the damaged or destroyed Residential Dwelling or Improvement has not been razed and the Lot restored to its original condition, the Association and/or any contractor engaged by the Association, will upon ten (10) days written notice to the Owner at the Owner's last known mailing address according to the records of the Association, have the authority but not the obligation to enter upon the Lot, raze the Residential Dwelling or Improvement and restore the Lot as nearly as possible to its original condition. Any costs incurred by the Association to raze the Residential Dwelling or Improvement and to restore the Lot to its original condition, plus fifty percent (50%) of such costs for overhead and supervision, will be charged to the Owner's Assessment account, secured by the lien created in Article VI of this Declaration and collected in the manner provided in Article VI of this Declaration. Interest

RP-2017-459007

thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, will begin to accrue on such sum on the thirty-first (31<sup>st</sup>) day after a written invoice is delivered to the Owner.

## ARTICLE IX

### Amendment, Duration, Annexation and Merger

**SECTION 9.1. AMENDMENT.** During the Declarant Control Period, Declarant has the authority to amend this Declaration, without the joinder or consent of any other party, for any purpose so long as an amendment does not materially and adversely affect any substantive rights of the Lot Owners. After the expiration of the Declarant Control Period, Declarant has the right to amend this Declaration, without the joinder or consent of any other party, for the purpose of clarifying or resolving any ambiguities or conflicts herein, correcting any inadvertent misstatements, errors, or omissions, or modifying a provision to comply with a change in applicable law; provided, however, any such amendment must be consistent with and in furtherance of the general plan and scheme of development for the Subdivision. In addition, the provisions of this Declaration may be amended at any time by an instrument in writing signed by the President and Secretary of the Association certifying that Owners representing not less than sixty-seven percent (67%) of the votes in the Association have approved an amendment which such amendment and the affirmation of the President and Secretary of the Association must be duly recorded in the Official Public Records of Real Property of Harris County, Texas; provided that, during the Declarant Control Period, an amendment of this Declaration must also be approved in writing by Declarant. Provided further that, without the joinder of Declarant, no amendment may diminish the rights or increase the liability of Declarant under this Declaration. In the event that there are multiple Owners of a Lot, the written approval of an amendment to this Declaration may be reflected by the signature or vote of a single co-Owner. Any legal challenge to the validity of an amendment to this Declaration must be initiated by filing a suit not later than one (1) year after the date the amendment document is recorded in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 9.2. DURATION.** The provisions of this Declaration will remain in full force and effect until January 1, 2037, and are extended automatically for successive ten (10) year periods; provided however, that the provisions of this Declaration may be terminated on January 1, 2037, or on the commencement of any successive ten (10) year period by filing for record in the Official Public Records of Real Property of Harris County, Texas, an instrument in writing signed by Owners representing not less than ninety percent (90%) of the Lots in the Subdivision.

**SECTION 9.3. MERGER.** Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association must administer the covenants and restrictions applicable to the properties of the merging or consolidating associations as one (1) scheme. No such merger or consolidation will effect any revocation, change or addition to the provisions of this Declaration.

**SECTION 9.4. ANNEXATION.** Additional land may be annexed and subjected to the provisions of this Declaration by Declarant, without the consent of the Members, within twenty (20) years of the date that this Declaration is recorded in the Official Public Records of Real Property of Harris County, Texas. Further, additional land may be annexed and subjected to the provisions of this Declaration with the consent of not less than two-thirds (2/3) of the Members of the Association present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present. Provided that, during the Declarant Control Period, the annexation of additional land will also require the written consent of Declarant. The annexation of additional land will be effective upon filing of record an annexation instrument in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 9.5. DEANNEXATION OF LAND.** During the Declarant Control Period, land made subject to this Declaration may be deannexed by an instrument signed by Declarant and the Owner(s) of the land to be deannexed and recorded in the Official Public Records of Real Property of Harris County, Texas. Thereafter, land made subject to this Declaration may be deannexed by an instrument signed by Owners representing not less than two-thirds (2/3) of the Lots and filed of record in the Official Public Records of Real Property of Harris County, Texas.

**ARTICLE X**  
**Miscellaneous**

**SECTION 10.1. SEVERABILITY.** In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of this Declaration will remain in full force and effect.

**SECTION 10.2. NUMBER AND GENDER.** Pronouns, whenever used herein, and of whatever gender, include natural persons and corporations, entities and associations of every kind and character, and the singular includes the plural, and vice versa, whenever and as often as may be appropriate.

**SECTION 10.3. ARTICLES AND SECTIONS.** Article and section headings in this Declaration are for convenience of reference and do not affect the construction or interpretation of this Declaration. Unless the context otherwise requires, references herein to articles and sections are to articles and sections of this Declaration.

**SECTION 10.4. DELAY IN ENFORCEMENT.** No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof will impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

**SECTION 10.5. LIMITATION OF LIABILITY.** Notwithstanding anything provided herein to the contrary, neither the Architectural Control Committee, the Association, nor any agent, employee, representative, member, shareholder, partner, officer or director thereof, will have any liability of any nature whatsoever for any damage, loss or prejudice

RP-2017-459007

suffered, claimed, paid or incurred by an Owner on account of (a) any defects in any plans and specifications submitted, reviewed, or approved in accordance with the provisions of Article IV above, (b) any defects, structural or otherwise, in any work done according to such plans and specifications, (c) the failure to approve or the disapproval of any plans, drawings, specifications or other data submitted by an Owner for approval pursuant to the provisions of Article IV, (d) the construction or performance of any work related to such plans, drawings and specifications, (e) bodily injuries (including death) to an Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or occupant, or other damage to a Residential Dwelling, Improvements or the personal property of an Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or occupant, which may be caused by, or arise as result of, any defect, structural or otherwise, in a Residential Dwelling or Improvements or the plans and specifications thereof or any past, present or future soil and/or subsurface conditions, known or unknown and (f) any other loss, claim, damage, liability or expense, including court costs and attorney's fees suffered, paid or incurred by an Owner arising out of or in connection with the use and occupancy of a Lot, Residential Dwelling, or any other Improvements situated thereon.

**SECTION 10.6. ENFORCEABILITY.** The provisions of this Declaration run with the Subdivision and are binding upon and inure to the benefit of and be enforceable by the Association, each Owner and occupant of a Lot in the Subdivision, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. Provided that, only the Association has the authority to enforce the provisions in Article VI of this Declaration relating to the payment of Assessments. If notice and an opportunity to be heard are given, the Association is entitled to impose reasonable fines for violations of the provisions of this Declaration or any Rules and Regulations or Architectural Guidelines adopted by the Association or the Architectural Control Committee pursuant to any authority conferred by any of them by the provisions of this Declaration and to collect reimbursement of actual attorney's fees and other reasonable costs incurred by it relating to violations of the provisions of this Declaration. Such fines, fees and costs may be added to the Owner's Assessment account and collected in the manner provided in Article VI of this Declaration.

**SECTION 10.7. REMEDIES.** In the event any one or more persons, firms, corporations or other entities violate or attempt to violate any of the provisions of this Declaration, the Association, each Owner or occupant of a Lot within the Subdivision, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation.

**SECTION 10.8. INTERPRETATION.** This Declaration must be liberally construed to effect its purposes and intent.

RP-2017-459007

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration on this the 18<sup>th</sup> day of October, 2017, to be effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

DECLARANT:

Elite Townhomes, LLC  
a Texas limited liability company

By: *Souhail Adam*  
Name: Souhail Adam  
Title: Member

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS           §

BEFORE ME, the undersigned notary public, on this 18<sup>th</sup> day of October, 2017 personally appeared Souhail Adam, Member of Elite Townhomes, L.L.C., a Texas limited liability company, on behalf of said company.

*Elizabeth Ruth Tannery*  
Notary Public in and for the State of Texas



RP-2017-459007

LIENHOLDER CONSENT AND SUBORDINATION

Prosperity Bank, a national banking association, being the sole beneficiary of a mortgage lien and other liens, assignments and security interests encumbering all or a portion of the Subdivision hereby consents to the provisions of this Declaration of Covenants, Conditions and Restrictions for Elite Townhomes (the "Declaration") to which this Lienholder Consent and Subordination is attached and subordinates its lien(s) and security instruments securing said indebtedness to the provisions of the Declaration. Prosperity Bank acknowledges and agrees that the foreclosure of its lien(s) and security interests will not extinguish this Declaration. No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

SIGNED AND EXECUTED THIS on October 18<sup>th</sup>, 2017.

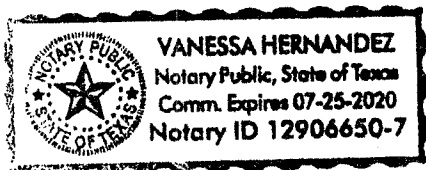
Prosperity Bank

By: [Signature]  
Name: Sarah Harrison  
Title: VICE PRESIDENT

STATE OF Texas §

COUNTY OF Harris §

This instrument was acknowledged before me on the 18 day of October 2017, by Sarah A. Harrison, the Vice President of Prosperity Bank, on behalf of said entity.



[Signature]  
Notary Public in and for the State of Texas

RP-2017-459007

RP-2017-459007  
# Pages 55  
10/19/2017 08:21 AM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
STAN STANART  
COUNTY CLERK  
Fees \$228.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



*Stan Stanart*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

RP-2017-459007