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County Clerk**

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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.

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I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the Official Public records of BRAZOS COUNTY, TEXAS

Honorable Karen McQueen, County Clerk, Brazos County

UTitle No. 177146 F Rev

**EIGHTH AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF  
CASTLEGATE II  
AND ADDITION OF LAND**

THE STATE OF TEXAS

COUNTY OF BRAZOS

This EIGHTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II (the "Declaration"), is made effective as of 3/20/17, by DOS DORADO DEVELOPMENT, L.L.C. d.b.a. 3-D DEVELOPMENT, a Texas limited liability company, (hereinafter sometimes referred to as "First Declarant") and GREENS PRAIRIE INVESTORS, LTD., a Texas limited partnership, (hereinafter sometimes referred to as "Second Declarant");

WHEREAS the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CASTLEGATE II, (the "Original Declaration") effective November 4, 2011 was recorded in Volume 10402, Page 220 of the Official Records of Brazos County, Texas; the FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF CASTLEGATE II (the "First Restated Declaration") effective November 4, 2011 was recorded in 10498, Page 196 of the Official Records of Brazos County, Texas; the NOTICE OF ADDITION OF LAND TO CASTLEGATE II effective December 31, 2012 was recorded in Volume 11109, Page 247 of the Official Records, Brazos County, Texas; the SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II (the "Second Restated Declaration") effective November 4, 2011 was recorded in Volume 11479, Page 181 of the Official Records, Brazos County, Texas; the THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II (the "Third Restated Declaration") effective November 11 2011 was recorded in Volume 11915, Page 211 of the Official Records, Brazos County, Texas; the FOURTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II (the "Fourth Restated Declaration") effective June 18, 2014 was recorded in Volume 12086, Page 233 of the Official Records, Brazos County, Texas; the FIFTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II (the "Fifth Restated Declaration") effective December 19, 2014 was recorded in Volume 12436, Page 65 of the Official Records, Brazos County, Texas; and the SIXTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II (the "Sixth Restated Declaration") effective June 2, 2015, was recorded in

Volume 12732, Page 238 of the Official Records, Brazos County, Texas; and the SEVENTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II (the "Seventh Restated Declaration") effective July 22, 2015, was recorded in Volume 12831, Page 105 of the Official Records, Brazos County, Texas; collectively, all of the prior declarations of Castlegate II listed in this paragraph may be called "the Prior Declarations" in this Declaration;

WHEREAS, pursuant to Section 9.07 of the Original Declaration, First Declarant may assign, in whole or in part, its rights as Declarant and permit the participation, in whole or in part, of any other person or entity in the privileges, rights, exemptions and duties of the Declarant, and desiring to do so by this Declaration, to Second Declarant, with respect to all Property, while reserving none of its rights as First Declarant with respect to the Property;

WHEREAS, pursuant to Section 9.03(A) of the Declaration, the First Declarant may amend the Original Declaration, First Restated Declaration, Second Restated Declaration, Third Restated Declaration, Fourth Restated Declaration, Fifth Restated Declaration and Sixth Restated Declaration and Seventh Restated Declaration desires to do so by this EIGHTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF CASTLEGATE II, which shall completely replace and supersede the Seventh Restated Declaration;

WHEREAS, the Prior Declarations all provide that Declarant may subject and add other lands to the land encumbered and benefitted by the Declaration, and First Declarant and Second Declarant have added all of the lands which are described in Exhibit A, attached hereto and made a part hereof, but Second Declarant now desires to define Sections 208, 209 and 210 as part of the 62.97 acres, more or less, added by the Seventh Restated Declaration, and to add an additional 9.876 acres ("the Added Property") as part of Section 209, the plats of the said Sections 208 and 209 being attached hereto as part of EXHIBIT "B" ", and made a part hereof;

WHEREAS, Second Declarant desires to establish and implement plans for residential living, recreation, aesthetic and quality-of-life considerations. The purposes of this Declaration are to: protect the Second Declarant and the Owners against inappropriate development and use of Lots within the Subdivision; provide use, maintenance and repair of compatibility of design of improvements within the Subdivision; secure and preserve sufficient setbacks and space between buildings so as to create an aesthetically pleasing environment; provide for landscaping and the maintenance thereof; and in general to encourage construction of attractive, quality, permanent improvements that will promote the general welfare of the Second Declarant and the Owners. Second Declarant desires to impose these restrictions on the Added Property now and yet retain reasonable flexibility to respond to changing or unforeseen circumstances so as to guide, control and maintain the quality and distinction of this project. The restrictive covenants herein will preserve the best interests of the First

Declarant, Second Declarant and the Owners and Residents of Castlegate II after completion of all development and construction therein

WHEREAS the First Declarant and Second Declarant desire to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that First Declarant assigns, all of its privileges, rights, exemptions, and duties as Declarant to Second Declarant, and agrees that Second Declarant may act as Declarant in the manner provided herein; (ii) that the Added Property is hereby submitted to the Declaration by Second Declarant; (iii) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, liens, and charges, which are for the purpose of preserving the value and desirability of, and which shall run with, the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof; and (iv) that each contract or deed that may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract, or deed.

#### ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the following meanings hereinafter specified:

1.01 Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements on the Property.

1.02 Architectural Committee Rules. "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same may be amended from time to time.

1.03 Articles. "Articles" shall mean Certificate of Formation of Homeowners' Association of CASTLEGATE II, Inc., as that instrument may be amended from time to time, which instrument is filed in the office of the Secretary of State of the State of Texas.

1.04 Assessment. "Assessment" or "Assessments" shall mean such assessments as may be levied by the Association under the terms and provisions of the Declaration.

1.05 Association. "Association" shall mean Homeowners' Association of CASTLEGATE II, Inc., a Texas non-profit corporation, which shall have authority and responsibility for all of the communities and subdivisions of Castlegate II, as hereafter defined.

1.06 Board. "Board" shall mean the Board of Directors of the Association. Board members may, but need not, be Members of the Association.

1.07 Bylaws. "Bylaws" shall mean the Bylaws of the Association as adopted by the Board, and from time to time amended.

1.08 CASTLEGATE II Communities. Declarant, or Declarant's assigns, may create additional phases or sections of Castlegate, and adopt the same or similar restrictions, rules, and regulations for such phases or sections, and make the additional phases or sections subject to the Association.

1.09 CASTLEGATE II Residential Restrictions. "CASTLEGATE II Residential Restrictions" shall mean this Declaration, as the same may be amended from time to time, together with the CASTLEGATE II Rules, Architectural Committee Rules and the Articles and Bylaws of the Association as the same are in effect from time to time.

1.10 CASTLEGATE II Rules. "CASTLEGATE II Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

1.11 Common Areas. "Common Areas" shall mean any land conveyed, leased, dedicated or assigned by Declarant, or a third party with the Association's consent, to the Association for maintenance and operation, including, but not limited to, easements, roads, entryways, roadways, rights-of-ways, parkways, median strips, sidewalks, parks, trails, paths, ponds, creeks, and lakes within the Property. This definition of common area is limited with respect to Lot 14, Block 47, Section 209, as provided in Section 5.07 of this Declaration.

1.12 Declarant. "Declarant" shall mean First Declarant and Second Declarant, collectively.

1.13 Declaration. "Declaration" shall mean this instrument as it may be amended from time to time. Neither the Original Declaration, the First Restated Declaration, the

Second Restated Declaration, the Third Restated Declaration, the Fourth Restated Declaration, the Fifth Restated Declaration, the Sixth Restated Declaration and the Seventh Restated Declaration shall have any further force or effect after the recording hereof.

1.14 First Declarant. "First Declarant" shall mean Dos Dorado Development, L.L.C. d.b.a. 3-D Development, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of Dos Dorado Development, LLC, as First Declarant, must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignments of the rights of First Declarant shall not be sufficient to constitute an assignment of the rights of First Declarant hereunder.

1.15 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, pole signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, walls, tanks, reservoirs, pipes, lines, meters, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.16 Lease. "Lease" shall mean a written document for a term of at least 90 days between an Owner and tenants occupying the Owner's Lot. No Lease shall be executed by an Owner which applies to a fraction, room, bedroom or portion of a residence.

1.17 Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a recorded plat of the Property, together with all Improvements located thereon.

1.18 Member. "Member" or "Members" shall mean any person(s), entity, or entities holding membership rights to the Association.

1.19 Mortgage. "Mortgage" or "Mortgages" shall mean any mortgage or deed of trust covering any portion of the Property given to secure the payment of a debt.

1.20 Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

1.21 Occupant Group. "Occupant Group" shall mean one or more persons from among the following:

- a. The Owner or Owners of record of a Lot;
- b. If the Lot is occupied by one or more tenants under a Lease, the Primary Tenant, defined below;
- c. Persons related to such Owner or Owners of record, or the Primary Tenant, within the first degree of relationship;
- d. No more than one other person unrelated to the persons described in (a), (b), or (c).

1.22 Owner. "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any Lot on the Property, but shall not include a Mortgagee.

1.23 Person. "Person" or "Persons" shall mean an individual or individuals, entity or entities having the legal right to hold title to real property.

1.24 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

1.25 Primary Tenant. "Primary Tenant" shall mean the tenant named in a Lease of a Lot as the Primary Tenant and registered with the Association, or if no such designation or registration is made, the first tenant listed in the Lease.

1.26 Property. "Property" shall mean the real property in Brazos County, Texas described in Exhibit "A" and Exhibit "B", which are attached hereto and incorporated by reference into this Declaration. The Property includes Sections 100, 101, 102, 103, 104, 105, 106, 107, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, and 210 (not yet platted) including all of the Common Areas shown on the plats of the Property, whether previously included or included herein.

1.27 Second Declarant. "Second Declarant" shall mean GREENS PRAIRIE INVESTORS, LTD., its duly authorized representatives or their successors or assigns; provided that any assignment of the rights of GREENS PRAIRIE INVESTORS, LTD., as

Second Declarant, must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignments of the rights of Second Declarant shall not be sufficient to constitute an assignment of the rights of Second Declarant hereunder.

## ARTICLE 2 DEVELOPMENT OF THE PROPERTY

2.01 Development or Sale by Declarant. Declarant may divide or subdivide the Property into several areas, develop some of the Property, and, at Declarant's option, sell any portion of the Property free of the restrictions set forth in this Declaration.

2.02 Addition of Land. Declarant may, at any time and from time to time, add any other lands to the Property, and upon such addition, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as they are with respect to the lands originally covered by the Declaration. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Official Records of Brazos County, Texas, a Notice of Addition of Land containing the following provisions:

- a. A reference to this Declaration, which reference shall state the book and page numbers of the Official Records of Brazos County wherein this Declaration is recorded;
- b. A statement that the provisions of this Declaration shall apply to the added land; and
- c. A legal description of the added land.

2.03 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw areas from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw lands from the Property hereunder, Declarant shall be required only to record in the Official Records of Brazos County, Texas, a Notice of Withdrawal of Land containing the following provisions:

- a. A reference to this Declaration, which reference shall state the book and page numbers of the Official Records of Brazos County wherein this Declaration is recorded;



- b. A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- c. A legal description of the withdrawn land.

**ARTICLE 3  
GENERAL RESTRICTIONS**

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.01 Construction of Improvements. No Improvements shall hereafter be constructed upon any of the Property without the prior approval of the Architectural Committee.

3.02 Antennas.

(A) Antennas may be installed and maintained in an Approved Location unless installation in the Approved Location results in Unreasonable Delay, Unreasonable Cost Increase or Signal Impairment. If installation in an Approved Location results in Unreasonable Delay, Unreasonable Cost Increase or Signal Impairment, the Antenna may be installed and maintained elsewhere on the Lot and the Architectural Committee may require screening that does not result in Unreasonable Delay, Unreasonable Cost Increase or Signal Impairment.

(B) Within five (5) days after installation of an Antenna, Owner shall notify the Association in writing that an Antenna has been installed. If Owner has not installed the Antenna in an Approved Location and the Association can demonstrate that no Unreasonable Delay, Unreasonable Cost Increase or Signal Impairment would have resulted from installation of the Antenna in an Approved Location, the Association may require the Owner, at Owner's cost, to move the Antenna to an Approved Location. If the Antenna could have been located in Approved Location without Unreasonable Delay or Signal Impairment but with Unreasonable Cost Increase, the Association may, at its expense, using an installer selected by the Association and after reasonable notice to Owner, move the Antenna to an Approved Location.

(C) For purposes of this Section 3.02, the following are defined terms:

"Antenna" means any exterior antenna, aerials, satellite dishes or other apparatus (a) of one meter or less in diameter that is used to receive direct broadcast satellite service or to receive or transmit fixed wireless signals via satellite; (b) of one meter or less in

diameter that is used to receive video programming services via multipoint distribution services or to receive or transmit fixed wireless signals via other than satellite; or (c) that is used to receive television broadcast signals.

"Approved Location" means that portion of a Lot which is not visible from any street, Common Area or other Lot and preferably: (a) in the rear or side yard of the Lot; (b) mounted on a pole, the dwelling unit or other structure below the fence line or otherwise screened by a fence; and (c) not located on the roof of the dwelling unit or other improvement. See (B) above for other criteria requiring location in an Approved Location.

"Signal Impairment" means that the ability of an Antenna to receive or transmit acceptable quality signals from an Approved Location is precluded.

"Unreasonable Cost Increase" means the costs of installation, maintenance or use of an Antenna are unreasonably increased in light of the cost of the antenna and related equipment.

"Unreasonable Delay" means the installation, maintenance and use of the apparatus in the Approved Location is unreasonably delayed, such as by a preapproval or permit requirement.

3.03 Insurance Rates. Nothing shall be done or kept on the Property that would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without the prior written approval of the Board.

3.04 Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee.

3.05 Signs. No sign of any kind may be erected or maintained on any Lot without the consent in writing of the Architectural Committee except the following permitted signs:

- a. signs advertising the Lot for sale;
- b. not more than two (2) political signs;
- c. school spirit signs; or

d. security signs.

No permitted sign shall exceed five (5) square feet without the prior written approval of the Architectural Committee. Declarant or the Architectural Committee shall have the right to enter and remove any unapproved sign, advertisement, billboard or structure which is placed on any Lot without the Declarant or the Architectural Committee's consent, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith, or arising from such removal.

3.06 Rubbish and Debris. No rubbish or debris of any kind shall be allowed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view so that it is not visible from any street, Common Area or Lot. Trash containers must be promptly returned to their enclosed structures or screening following trash pickup and in no event shall a trash container remain visible from any street, Common Area or other Lot overnight. If rubbish or debris accumulates upon any Lot in violation of this provision in the judgment of the Association, the Association may remove the rubbish or debris, and charge a special assessment to the Owner of the Lot for the costs of removal.

3.07 Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.08 Lighting. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property, except for reasonable security or landscape lighting that has the approval of the Architectural Committee.

3.09 Nuisance and Lateral Support. No noxious or offensive activity or work shall be conducted upon any Lot so as to impair the structural soundness or integrity of any Improvement on any other Lot, or which may be or may become an annoyance or nuisance to the neighborhood.

3.10 Repair of Improvements. All Improvements upon the Property, including any Lot, shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner or Owners thereof.

3.11 Alteration or Removal of Improvements. Exclusive of normal maintenance, any construction or removal in connection with any Improvement, which in any way alters the exterior appearance of said Improvement, shall be performed only with the prior written approval of the Architectural Committee.

3.12 Roofing Materials. The surface of all roofs of principal and secondary structures shall be metal, shingle, wood shakes, tile, or dimension architectural quality composition shingle. "Three tab" composition shingles shall not be allowed. The Architectural Committee shall have authority to approve other roof treatments and materials when in its determination such treatment and materials in the form utilized will not be a detriment to the quality of the neighborhood.

3.13 Solar Equipment. In the event an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot, the location and installation design thereof shall be submitted to the Architectural Committee and approval of such design, including the aesthetics thereof, shall be required before construction may begin.

3.14 Driveway. The Architectural Committee shall have the right to impose limitations on driveway design, including materials, aprons, location and point of contact with dedicated roads, streets or private driveways within the Property.

3.15 Tanks. The Architectural Committee shall have the right to approve the location of any tank used or proposed in connection with a single family residential structure, including tanks for storage of fuel, water, oil or LPG and including swimming pool filter tanks. (No elevated tanks of any kind shall be erected, placed or permitted on any Lot). All tanks shall be screened so as not to be visible from any other portion of the Property.

3.16 Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on Improvements as approved in writing by the Architectural Committee, except what has already been constructed by the City of College Station, prior to October, 2011; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including but not limited to location, type of installation equipment, trenching method and other aspects of installation for both temporary and permanent utilities, shall be subject to review and approval by the

Architectural Committee. Declarant has no duty to provide any particular utility service at any time, and makes no representation or warranty that cable, television, telephone, internet or specific utility providers will be available in the Property.

3.17 Drainage. Declarant is only responsible for drainage inside the Road Right of Ways. Declarant is not responsible for any drainage other than what is previously listed.

3.18 Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted on a Lot except in contained barbeque units while attended and in use for cooking purposes, or within safe and well-designed (i) interior fireplaces, (ii) exterior fireplaces, or (iii) outdoor chimneys (or chimineas).

3.19 Mining and Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No well, pump, shaft, casing or other facilities for the removal of subsurface water shall be placed or maintained on any Lot, and no boring, drilling, removal or exploration for subsurface water or the injection of water or waste water shall be conducted on any Lot.

3.20 Machinery and Equipment. Without the approval of the Association or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in Brazos County, Texas, in connection with the use, maintenance, or construction of a private residence or appurtenant structures or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be placed, operated or maintained by any governmental or quasi-governmental agency, or by any public utility, in the performance of its legitimate functions.

3.21 Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon a Lot without the prior written approval of the Architectural Committee; provided, however, that the Declarant may maintain or authorize temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen on a Lot during any period of actual construction, which authorization, if given, shall include the nature, size, duration and location of such structure or structures.

3.22 Unsightly Articles; Vehicles; Garage Doors. No trailer, recreational vehicle, tent, boat, or stripped down, wrecked, junked, or wholly inoperable vehicle shall be kept, parked, stored, or maintained on any portion of the driveway or front yard, in front of the building line of the permanent structure, and same shall be kept, parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area which prevents the view thereof from adjacent Lots or streets. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment shall be permitted in any driveway or yard adjacent to a street. Garage doors shall be kept closed at all times except for reasonable time periods when such doors are in use. The Association may establish rules and regulations regarding the definition of "reasonable time periods". Overnight parking of vehicles on the curb of any street is prohibited. No vehicle may be parked in the street in front of any Lot for a period of more than twelve (12) consecutive hours.

3.23 Parking and Prohibited Vehicles.

(A) Parking. Vehicles shall be parked only in the garage or driveway serving a Lot, or in such other paved areas as have been approved by the Board for parking vehicles. A maximum of two (2) occupant vehicles may be parked outside of the garage, if any, serving a Lot. For purposes of this provision, a vehicle shall be considered an "occupant vehicle" if it is parked on a Lot four (4) or more hours per day, four (4) or more days in any seven (7) day period. The Board may authorize on-street parking on a temporary basis for visitors and guests, subject to reasonable rules and regulations. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally approved by the Architectural Committee unless alternative parking arrangements for enclosed parking are approved by the Architectural Committee; however, a builder may temporarily convert a garage into a sales or construction office, provided that it is converted back to a garage within thirty (30) days after cessation of construction and sale of new homes within the Properties by such builder. Garage doors visible from any street within the Properties shall remain closed except during ingress and egress or when the garage is actively being used by the Owner or occupant.

(B) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors (excluding vehicles with lettering or logos confined to the front door on each side), vehicles primarily used or designed for

commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. Vehicles that become inoperable while on the Properties must be removed within seventy-two (72) hours thereof. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed by the Association.

3.24 Mobile Homes, Travel Trailers, Recreational Vehicles. No mobile homes shall be parked or placed on any Lot at any time. No travel trailers or recreational vehicles may be kept on any Lot unless enclosed in a garage or parked so as not to be visible from adjoining property or public or private thoroughfares. In the event a travel trailer or recreational vehicle is not enclosed in a garage, the Architectural Committee must approve the location of its storage site. This restriction regarding travel trailers and recreational vehicles shall not apply to guests staying at any Lot for less than forty-eight (48) hours.

3.25 Fences.

(A) No fence, wall, or hedge shall be built or maintained forward of the front wall line of the main structure, not including decorative walls or fences, which are part of the Architectural Committee approved architectural design of the main structure, and which are not to be built or maintained nearer than the building setback line of any Lot. An exception shall be made in the case of retaining walls not to exceed twenty-four inches (24") above the ground. Notwithstanding the foregoing, the Architectural Committee is empowered to waive the aforesaid height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in order to accommodate a

unique, attractive or advanced building concept design or material and the resulting decorative wall and/or retaining wall will not detract from the general appearance of the neighborhood, or in the case where a Lot has a side yard which is adjacent to the backyard of an adjacent Lot. No chain-link fences may be built or maintained on any Lot.

(B) Unless otherwise approved by the Architectural Committee or as provided below, any fence built or maintained on any Lot shall be constructed only of standard grade 1" by 6" cedar privacy fence materials, six (6') feet in height, with the finished (smooth) side facing Victoria Drive, WS Phillips Pkwy Drive, all other streets or Common Areas, or adjoining properties which are not part of Castlegate II Communities, and the rough side facing the interior of any Lot. Second Declarant reserves the right, but not the duty, to construct the cedar privacy fencing on the following Lots which face Victoria Drive: Lots 1-8 (inclusive), Block 41, Section 209; Lot 13, Block 47, Section 209; Lots 10-18 (inclusive), Block 50, Section 210; and Lot 1, Block 48, Section 210; and on Lots 11-13 (inclusive) along the Common Area and Private Drainage Easement shown on the plat of Section 209. Maintenance of cedar fencing is the responsibility of the Owner of the Lots on which the fencing is located. The Owner (other than Declarant) of any Lot within Lots 8 – 17, Block 14, Section 100, Lots 1R – 7R, Lot 8R1, Lots 9R-13R Block 7, Section 200, and Lots 20, 22 and 23, Block 49, Section 210 shall erect wrought iron fencing on (i) the rear boundary and (ii) at least twenty-four feet (24') along the side boundary lines commencing from the rear boundary, and the Owner of the Lot shall be responsible for maintenance and repair of the fence. Declarant has no duty to erect wrought iron fencing, but the first Owner after Declarant has a duty to do so. The wrought iron fencing to be used shall be manufactured by Ameristar, 1-800-321-8724, Majestic Panels, 3 Rail, 6 feet tall, or substantially similar fencing if Ameristar no longer manufactures Majestic Panel.

3.26 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept or maintained on Lot. No domestic household pet shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets shall be allowed on the Property other than on the Lot of its Owner, except when



confined to a leash. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operation shall be allowed. No domestic household pet shall be allowed to run at large and all of such pets shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with Plans and Specifications approved by the Architectural Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property. No more than four (4) adult dogs and three (3) adult cats may be kept on a single Lot. All domestic household pets shall be kept in strict accordance with all local laws and ordinances.

3.27 Maintenance of Lawns and Plantings. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's Lot cultivated, pruned, and free of trash and other unsightly material. Subject to Section 3.30 below, trees, shrubs, vines and plants that die shall be promptly removed. Declarant, the Association and the Architectural Committee shall have the right at any reasonable time after giving not less than ten days' notice to Owner to cure any violation of this provision, to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located thereon, and to charge the cost thereof to the Owner of the Lot as provided in Section 5.04(E) below.

3.28 Landscape Design. All landscaping shall be designed so as to protect and promote, as far as practicable, the natural local landscape environment through use of native materials, natural drainage, indigenous plant selection and site design. All landscaping designs shall install live, growing sod covering the front, side, and back yards on or before substantial completion of any **newly constructed** residence on a Lot. Initial landscape installation must be performed in accordance with the rules and regulations set out by the Architectural Committee. Additionally, Lot Owners must use either a landscape contractor approved by the Architectural Committee, or submit the landscape plan to the Architectural Committee for approval. Owner shall maintain such sod in a healthy and growing condition. All front, side and back yards must be irrigated with automatic sprinkler systems and have landscaping acceptable to the Architectural Committee. On or before substantial completion of any newly constructed residence on a Lot, the Owner of such Lot shall keep (and/or plant) and maintain at least two (2) living trees with diameters of at least two (2") inches in the front yard of the Lot. Owner shall

maintain such trees in a healthy and growing condition. Notwithstanding the above provision, Owners of Lots in Sections 100, 101, 102, 103, 104, 105, 106, and 107 shall keep (and/or plant) and maintain at least one (1) living trees with diameters of at least two (2") inches in the front yards of their Lots. Any new trees or replacement trees, planted in the front yard of a Lot to maintain the required number of trees per Lot shall be evergreen trees, such as live oak, pine, fir, and juniper, or other evergreen trees. Nothing in this section shall be deemed to prohibit additional trees that are not evergreen.

3.29 Construction and Sales Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property, or the sale of any Lot thereafter. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence The Improvements, and then the material shall be placed within the property lines of the Lot upon which the Improvements are to be erected and shall not be placed on the street or on any other part of the Property. In the event of any dispute regarding such matters, the Architectural Committee may grant a temporary waiver of the applicable provision, for a period of time to be determined by the Architectural Committee in its sole and absolute discretion. At such time as the Declarant ceases using any portion of the Property as a model home or sales office, the affected Property shall be altered and/or remodeled, if necessary or desirable, to comply with the covenants and restrictions contained herein.

3.30 Mailboxes. No Lot shall have a mailbox on it. All mailboxes for U.S. Mail shall be located at cluster mailbox locations to be designated by the Architectural Committee.

3.31 Sight Lines. No fence, wall, hedge, or shrub planting which obstructs sight lines from streets on the Property shall be placed or permitted to remain on any corner Lot within the area defined by a line drawn between two points located forty (40') feet from the point of intersection of the street right-of-way property lines immediately adjacent to the Lot, as reasonably located by the Architectural Committee. Measurements shall be

by chord, and not arc. No tree shall be permitted to remain within such areas, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.

3.32 Garage Conversions. No garage or any portion thereof, may be constructed into enclosed living space unless an alternative garage of at least equal size is constructed and the Architectural Committee first approves the Plans and Specifications for conversion and construction in writing.

3.33 Lake and Other Public Areas. On any swimming pool, park, community center, meeting room, party room, lake or public areas constructed on the Property, the Board may establish rules and regulations for use or prohibitions against use from time to time. Swimming, boating and fishing shall not be allowed, except by and in accordance with regulations established by the Board in its sole and absolute discretion. Notwithstanding the foregoing, fishing in accordance with regulations established by the Board is allowed in the private lake located in the Common Area at Victoria and WS Phillips Pkwy. Fishing is prohibited in any other body of water located in the Common Areas.

3.34 Leasing. Rental of Lots shall be permitted, provided the Owner executes one, and only one Lease at any given time, and the Lease designates a Primary Tenant and the Owner registers the name and contact information of the Primary Tenant with the Association within ten (10) days after commencement of the Lease. If an Owner fails to designate a Primary Tenant in the Lease or to register the name and contact information of the Primary Tenant with the Association, it shall be conclusively presumed that the Primary Tenant is the first tenant name listed in the Lease. Each Owner who enters into a Lease shall provide copies of the Declaration, Bylaws, and Rules and Regulations of Castlegate II to the Primary Tenant, and shall require compliance with the Declaration, Bylaws and Rules and Regulations of Castlegate II by the Occupant Group.

3.35 Compliance with Provisions of CASTLEGATE II Residential Restrictions. Each Owner shall comply strictly with the provisions of the CASTLEGATE II Residential Restrictions as the same may be amended from time to time. Failure to comply with any of the CASTLEGATE II Residential Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by

any aggravated Owner. Declarant, for itself, its successor or assigns, reserves the right to enforce these restrictive covenants, though it may have previously sold and conveyed all subdivided Lots controlled by these covenants within the Property. The reservation of this right of enforcement shall not create an obligation of any kind to enforce the same.

3.36 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article 3 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance upon one or more such restrictive covenants, terms or provisions shall assume all the risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold the Declarant harmless therefrom.

#### ARTICLE 4 RESIDENTIAL RESTRICTIONS

4.01 Residential Use. Excluding Common Areas or pavilion or clubhouse areas reserved or owned by the Declarant, or its assigns, all Lots shall be improved and used solely for residential purposes inclusive of a garage, fencing, and other such improvements as are necessary or customarily incident to residential use. No Owner shall occupy or use his Lot or any Improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose, including religious, other than a private residence for members of the Occupant Group. All Lots within the Property shall be used and improved for single-family residential structures, with no more than one (1) residential dwelling unit per Lot. Anything herein to the contrary notwithstanding, any Lot may be used or improved for a greenbelt, open space or drain field purposes. No Improvement may be constructed upon any Lot that would unreasonably obstruct the view from any other portions of the Property, and the positioning of all Improvements upon Lots within the Property is hereby expressly made subject to Architectural Committee review. The Architectural Committee may, but shall not be required to, prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular Lot. The Architectural Committee may consider the effect the Improvement will have on the Property as a whole, it being expressly understood that neither the Architectural Committee nor the members thereof shall be liable to any Owner in monetary damages or otherwise due to

the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots.

4.02 Garages and Garage Orientation. No Lot shall have Improvements erected which do not provide for a minimum of a two-vehicle garage. In Sections 200, 201, 203, 204, 205, 206, 207, 208, 209 and 210 within the Property, garage entrances must be recessed at least five (5) feet from the front of the house facing any street unless the garage entrance is on the side of the house. Any other type of garage must be fully or partially screened from visibility from any street in a manner acceptable to the Architectural Committee in its sole and absolute discretion. All garage doors must meet the rules and regulations set out by the Architectural Committee and must have decorative hardware, windows, or decorative wooden construction.

4.03 Outbuildings. Every building, inclusive of such structures as a detached garage, storage building or greenhouse shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition or be completely screened from public view. All such buildings shall be subject to approval by the Architectural Committee. In no instance shall an outbuilding, other than a detached garage, exceed one (1) story in height or have total floor area in excess of ten percent (10%) of the floor area of the main dwelling.

4.04 Building Height. No Improvement greater than thirty-two (32') feet in height may be constructed on any Lot without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the foundation slab of the proposed Improvement to the ridgeline of the roof of the proposed Improvement.

4.05 Building Materials; Dwelling Size; Chimney Construction.

(A) All single family dwellings shall be of recognized standard construction quality, and all exteriors (exclusive of doors, windows and similar openings) shall be constructed as set out below, of a minimum percentage of masonry or other material specifically approved in writing by the Architectural Committee. Masonry includes stucco, brick, rock and all other materials commonly referred to in the College Station, Texas area as masonry. Masonry does not include concrete hardy-board siding. Unless an exception is granted by the Architectural

Committee, all single family dwellings shall contain no less than the number of square feet of enclosed living space, exclusive of all porches (open or covered), decks and garages set out below. Each residence shall include an enclosed attached or detached garage or other structure sufficient to meet the requirements of Sections 3.22 and 4.02 above.

In each of the Sections to be developed within the Property, subject to amendment at Declarant's sole discretion, the following minimum standards shall apply:

<u>Section</u>	<u>Minimum Masonry Requirement</u>	<u>Masonry Chimney Requirement</u>	<u>Minimum Square Footage of Residence (heated sq. ft.)</u>
Section 100	85%	No, except (B) below	1500
Section 101	85%	No, except (B) below	1500
Section 102	85%	No, except (B) below	1500
Section 103	85%	No, except (B) below	1500
Section 104	85%	No, except (B) below	1500
Section 105	85%	No, except (B) below	1500
Section 106	85%	No, except (B) below	1500
Section 107	85%	No, except (B) below	1500
Section 200	90%	Yes	2000
Section 201	90%	Yes	2000
Section 202	90%	Yes	2000
Section 203	90%	Yes	2000
Section 204	90%	Yes	2000

Section 205	90%	Yes	2000
Section 206	90%	Yes	2000
Section 207	90%	Yes	2000
Section 208	90%	Yes	2000
Section 209	90%	Yes	2000
Section 210	90%	Yes	2000

\*\* See also Section 3.24 for certain Lot specific fencing requirements

(B) On Lots in Sections 100 – 107, inclusive, chimneys on dwellings need not be masonry unless:

- i. The rear boundary of the Lot is adjacent to Victoria or W.S. Phillips Parkway and the chimney is on the rear portion of the dwelling;
- ii. The chimney is on the front portion of the dwelling facing the front Lot line; or
- iii. The dwelling is on a corner Lot, and the chimney is on the side of the dwelling facing the side street.

Notwithstanding any provision herein to the contrary, masonry chimneys shall not be required if the dwelling has a fireplace vent pipe with a diameter not exceeding six (6") inches.

4.06 Construction in Place. The use of prefabricated materials, including antique homes moved from other locations, shall be allowed only with the prior written approval of the Architectural Committee.

4.07 Setback Requirements. No building shall be located or erected nearer to any Lot line than the building line shown on the recorded plat of the Property subdivision section which includes such Lot.

**ARTICLE 5  
CASTLEGATE II OWNERS ASSOCIATION**

5.01 Organization. The Declarant has, on October 25, 2011, caused the formation and incorporation of the Association as a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.02 Membership. Any Person or entity upon becoming an Owner shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest, which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with title to the said property interest.

5.03 Voting Rights. The right to cast votes and the number of votes which may be cast, for election of directors to the Board and on all other matters to be voted on by the Members shall be calculated as follows:

(A) The Owner, whether one or more (including Declarant), of each Lot within the Property shall have one vote for each Lot so owned. In addition, Declarant shall have one vote for each lot reflected on the preliminary plats of the portions of the Property which have not been platted.

(B) In addition to the votes to which Declarant is entitled by reason of Subparagraph (A) of this Section, for every such vote, Declarant shall have three (3) additional votes until such time as the votes described in Subparagraph (A) of this section, owned by Owners other than Declarant, total in the aggregate ninety percent (90%) of the total number of votes outstanding under Subparagraph (A) (the "Transition Date"). Thereafter Declarant shall only have votes if any, to which it is entitled under Subparagraph (A) of this section.

5.04 Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to any limitations upon the exercise of its



power as are expressly set forth in this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association, and the Board acting on behalf of the Association, shall have the following powers at all times:

- (A) CASTLEGATE II Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such CASTLEGATE II Rules and Bylaws, not in conflict with this Declaration, as it deems proper to address any and all aspects of its functions. The Association shall have the authority to establish committees pertaining only to specific sections of CASTLEGATE II. Any committee, which elects to oversee a particular section, shall have the power to establish section rules, which shall apply only to sections over which the committee has oversight. Any such section rules may be more restrictive than the provisions hereof, but shall not be less restrictive.
- (B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out Association functions.
- (C) Records. To keep books and records of the Association's affairs.
- (D) Assessments. To levy Assessments as provided in Article 7 below.
- (E) Right of Entry and Enforcement. To enter at any time in an emergency, or in a non-emergency, after ten (10) days' written notice, without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the CASTLEGATE II Residential Restrictions or for the purpose of erecting, maintaining or repairing any Improvement to conform to the CASTLEGATE II Residential Restrictions, and the expense incurred by the Association in connection with the entry upon any Lot and the work conducted thereon (i) shall be a personal obligation of the Owner of the Lot entered upon, (ii) shall be a lien upon the Lot entered on and Improvements thereon, and (iii) shall be enforced in the same manner and to the same extent as provided in Article 7 hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the names of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or

otherwise, or to restrain and enjoin, any breach or threatened breach of the CASTLEGATE II Residential Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the CASTLEGATE II Residential Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns.

(F) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper for the operation of the Association.

(G) Delegation to Committees. To set up one or more committees as authorized by the Texas Non-Profit Corporation Act, as the same is amended from time to time.

(H) Employees. To engage such employees as may be reasonably necessary in the management of the Association and the performance of its duties.

5.05 Landscape and Maintenance. The Association shall be authorized to landscape, maintain and repair easements, rights-of-way, common areas, entryways, sidewalks, paths, trails, detention ponds, lakes, waterfall pumps, irrigation equipment, water wells, entrance buildings, and other areas of the Property, as appropriate.

5.06 Common Areas.

(A) Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:

- i. To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by Declarant, together with any Improvements of any kind or purpose located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by Declarant; and to maintain in good repair and condition all lands, Improvements, and other Association property owned by or leased to the Association, whether by Declarant or by other Persons.

- ii. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon individual Members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
  
- iii. To execute mortgages, both construction and permanent, for construction of Improvements on property owned by or leased to the Association, and to accept lands in Common Areas, whether or not improved, from Declarant subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner deemed appropriate by the borrower, whether Declarant or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien, as deemed appropriate by borrower, whether Declarant or the Association, on the Improvements to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessment of Members, or otherwise, or any combination thereof, as may be deemed appropriate by Declarant or the Association, as the case may be, but subject to the limitations imposed by this Declaration.

(B) In addition to, and not in limitation of, the power and authority of the Association as set forth in Section 5.04 of this Declaration, the Association, acting through the Board, shall have the power and authority:

- i. To grant and convey portions of Association property, including fee title, leasehold estates, easements, right-of-way, and/or mortgages, to any person or entity for the purpose of constructing, erecting, operating or maintaining the following:
  - (a) Parks, parkways or other recreational facilities or structures;

- (b) Roads, streets, walks, driveways, trails and paths;
- (c) Lines, cables, wires, conduits, pipelines or other means of providing utilities;
- (d) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
- (e) Any similar public, quasi-public or private Improvements.

Nothing contained in this subparagraph, however, shall be construed to permit use or occupancy of any Common Area or Improvement in a way that would violate applicable use and occupancy restrictions imposed by other provisions of this Declaration, or by any statute, rule, regulation, ordinance or other law of any governmental entity, including but not limited to rules and orders of the Texas Water Development Board, Texas Water Commission, Texas Commission on Environmental Quality ("TCEQ") and any flood plain, industrial waste or other ordinance of the City of College Station.

- ii. To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for the property of the Association, or within city-owned parks, parkways, entrance ways, or street rights of way which the Association desires to maintain or pay for, in the best interest of the Association and the aesthetic appearance of the subdivision as a whole.
- iii. To pay for any other services necessary or proper in the performance of Association functions, and to pay for any other taxes or assessments that the Association or the Board is required to secure or to pay for, pursuant to applicable law, the terms of this Declaration, or the Articles or Bylaws of the Association.
- iv. To own and operate any and all types of facilities for both active and passive recreation.
- v. To construct new Improvements or additions to Association properties,

subject to the approval of the Architectural Committee as required in this Declaration.

- vi. To enter into contracts with Declarant, other property owners associations with regard to other lands, and other persons, on such terms and provisions as the Board shall determine, to operate and maintain any of the Common Areas, to allow use by owners of land subject to the jurisdiction of other property owners associations, or to provide any service or perform any function on behalf of Declarant or the Association in connection with the purposes of the Association, on such terms as the Board may determine.
- vii. To acquire and own and to dispose of all manner of real and personal property, whether by purchase, grant, lease, gift or otherwise.
- viii. To borrow funds from banks, private lenders or Declarant, for such amounts and on such terms as the Board, in its sole discretion, shall deem appropriate, for the purpose of carrying out the Association's powers, responsibilities, and obligations set out herein or otherwise permitted by law, and to secure such loans with assets of the Association as reasonably necessary to achieve the purposes of the Association. Such loans may be obtained to meet obligations of the Association when assessment or other funds are insufficient to meet necessary expenses, or to make capital improvements within the Common Areas.

5.07 Special Exception for Common Area and Private Drainage Easement within Lot 14, Block 47, Section 209. Within Lot 14, Block 47, Section 209, one certain parcel consisting of 1.69 acres, more or less, is designated as "Common Area 3 and Private Drainage Easement", and a second parcel consisting of 0.50 acres, more or less, is designated as "Private Drainage Easement" (collectively called "CA3 and the PDEs" herein). Fee simple title to CA3 and the PDEs will not be conveyed to the Association, but the Owner of Lot 14, Block 47, Section 209 will be the fee simple owner of CA3 and the PDEs, and shall have the right of use and occupancy of CA3 and the PDEs, subject only to an easement to the Association for the purpose of making the CA3 operational for storm water drainage and detention, and maintaining and repairing the CA3 and the PDEs, and for ingress and egress across the 0.50 acre PDE between Greens Prairie

Road West/Victoria Avenue and the CA3. Second Declarant will convey an easement, only, to the Association for the purpose of storm water drainage and detention within CA3 and the PDEs. The Owner of Lot 14, Block 47, Section 209 shall be solely responsible for mowing and other aesthetic maintenance of the CA3 and the PDEs.

5.08 Agreement with City of College Station, State of Texas, and County of Brazos. The Declarant, as the agent of the Association, or the Association, may enter into one or more agreements (i) with the City of College Station or State of Texas or Brazos County, with respect to (1) the landscaping and maintenance of portions of public streets, highways or rights of way, or (2) the dedication of any drainage basin, park or other common area within the property for municipal maintenance, or (ii) with the City of College Station with respect to landscaping and maintenance of portions of utility easements. The Association shall accept, without further requirement or documentation, said agreement and the requirements and benefits associated therewith, for any agreement reached by the Declarant.

5.09 Merger or Other Agreements. The Association may enter into agreements to merge, consolidate, combine and cooperate with other property owners associations with jurisdiction over other lands not subject to the Declaration (including, without limitation, Castlegate Homeowners Association, Inc.). Such agreements shall be on such terms as the Board shall determine, including, without limitation, agreements to merge the Association with such other associations; to cooperate in the maintenance of Common Areas, to allow use of Common Areas by residents of other lands subject to the jurisdiction of other associations; and to make loans, enter contracts, charge user fees, or enter into leases with other associations providing for use or improvement of Common Areas; on such terms as the Board in its sole discretion may determine.

5.10 Indemnification. The Association shall indemnify any director, officer, or member of a committee duly appointed pursuant to the Articles or Bylaws who by reason of the fact that such person is or was a director, officer or member of such a committee of the Association was, is, or is threatened to be made, a named defendant or respondent in (i) any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative, or investigative, (ii) any appeal in such an action, suit, or proceeding, and (iii) any inquiry or investigation that could lead to such an action, suit, or proceeding (hereinafter a "Proceeding"), and against all judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable

expenses actually incurred by the person in connection with any such Proceeding to the fullest extent permitted by the Texas Non-Profit Corporation Act, as amended and in effect from time to time. Such authorization of indemnification shall be deemed to be mandatory and deemed to constitute authorization of indemnification and advancement of expenses to the fullest extent permitted by the Texas Non-Profit Corporation Act, as amended and in effect from time to time.

## ARTICLE 6 ARCHITECTURAL COMMITTEE

6.01 Membership of Architectural Committee. The Architectural Committee shall consist of not more than three (3) voting members ("Voting Members") and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as the Voting Members deem appropriate. The following persons are hereby designated as the Voting Members of the Architectural Committee: Wallace Phillips, III, Candace Phillips, and Wallace Phillips, IV.

6.02 Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the Voting Members.

6.03 Advisory Members. The Voting Members may from time to time designate Advisory Members.

6.04 Term. Each member of the Architectural Committee shall hold office until such time as he or she has resigned or has been removed or his or her successor has been appointed as provided herein.

6.05 Declarant's Rights of Appointment. Until the Transition Date as defined in Section 5.03(B), Declarant, its successors or assigns shall have the right to appoint and remove all Voting Members of the Architectural Committee, which persons need not be drawn from Association Members. Notwithstanding the preceding sentence, Declarant may delegate its right of appointment, or any portion thereof, to the Board by written instrument before such date. Whenever the Transition Date occurs, thereafter, the Board shall have the right to appoint all Voting Members. At such time as the Board gains the right to appoint and remove Voting Members of the Architectural Committee, or any portion of this right, a majority of the Voting Members so appointed shall be

drawn from Members of the Association. Advisory Members shall, when reasonably possible, be drawn from Members of the Association

6.06 Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it deems necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing code, and other similar codes.

6.07 Review of Proposed Construction. Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts that, in its sole and absolute discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefore shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications. Until receipt by the Architectural Committee of any information or document deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. Upon receipt of all necessary information, the Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other related duties assigned or authorized by this Declaration, including at its option inspection of construction in progress to assure its conformance with previously approved Plans and Specifications. The Architectural Committee shall have the express authority to perform fact-finding functions hereunder and shall have the power to construe and interpret any covenant herein that may be vague, indefinite, uncertain or capable of more than one construction. The Architectural Committee may, in its review of Plans and Specifications and such other information as it deems proper, consider whether any proposed Improvement upon a Lot would unreasonably obstruct the view from other portions of the Property. The Architectural Committee may, but shall not be required to, disapprove any Improvement upon any Lot that would unreasonably obstruct the view from any other portion of the Property. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with residential development within the Property and the surrounding area.



The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans and Specifications be deemed an endorsement, from the standpoint of structural safety, engineering soundness, or conformance with building or other codes not of its authorship.

6.08 Actions of the Architectural Committee. The Architectural Committee may, by resolution unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of a majority of all the members of the Architectural Committee taken without a meeting shall constitute an act of the Architectural Committee.

6.09 No Waiver of Future Approvals. The approval or consent of the Architectural Committee of any Plans and Specifications for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Committee, shall *not* be deemed to constitute a waiver of any right to withhold approval or consent as to any other Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

6.10 Work in Progress. The Architectural Committee may at its option inspect all work in progress to insure compliance with approved Plans and Specifications.

6.11 No Liability for Architectural Committee Members. Neither the Architectural Committee nor any member thereof shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Committee or its members, as the case may be. Neither the Architectural Committee nor any member thereof shall be liable to any Owner due to the construction of any Improvements within the Property, or the creation thereby of any obstruction of the view from such Owner's Lot or Lots.

6.12 Address. Plans and Specifications shall be submitted to the Architectural

Committee in care of Wallace Phillips, IV, 4490 Castlegate Drive, College Station, Texas 77845, or in care of such other person at such other address as may be designated by Declarant or the Board, as the case may be, from time to time.

6.13 Failure to Act. In the event the Architectural Committee or its designated representative fails to approve or disapprove any Plans and Specifications within ten (10) days after the same have been submitted to it, complete with all other information requested by the Architectural Committee in connection with such submission, approval shall be assumed.

6.14 Variances. Notwithstanding any other provision of this Declaration, in order to prevent undue hardship upon the Owner or Owners of any individual Lot or Lots upon the Property, variance from any restrictions set out in this Declaration may be granted by a unanimous decision of the Architectural Committee in a written instrument to be duly acknowledged, if and when such a variance shall ever be granted.

6.15 Governmental Agency Approval. Nothing in this Declaration shall be construed to relieve any Owner from securing such approvals, certificates and/or permits as may be required by law in connection with the construction of any Improvements on any Lot.

6.16 Relationship with Association. The Architectural Committee has been created pursuant to this Declaration to perform certain functions specified herein relating to the review and approval of Plans and Specifications for Improvements built on the Property. The Architectural Committee does not exercise the authority of the Board, and shall not do so unless and until (i) the Board shall have duly appointed a majority of Board members to the Architectural Committee, and (ii) the Board shall by unanimous resolution, duly recorded in the records of the Association, make the Architectural Committee a committee of the Board in accordance with the Texas Non-Profit Corporation Act.

## ARTICLE 7 FUNDS AND ASSESSMENTS

7.01 Assessments.

(A) The Association may from time to time levy Assessments against each Lot

whether or not improved. The level of Assessments shall be equal and uniform between all Lots, provided, however, that no Assessments hereunder shall be levied

against Declarant, and the Association may levy a lesser Assessment against vacant Lots or Lots with improvements under construction, in the Board's sole discretion.

(B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.

(C) Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the owner of the Lot against which the Assessment falls due, and shall become a lien against each such Lot and all improvements hereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

7.02 Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

7.03 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the CASTLEGATE II Residential Restrictions, including but not limited to the cost of all entry ways, landscaping, greenbelts, common areas, median strip, and right-of-way maintenance, the cost of enforcing the CASTLEGATE II Residential Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's funds. Assessments sufficient to pay such estimated note expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final

and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

7.04 Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under the CASTLEGATE II Residential Restrictions. The amount and due date of any special Assessments shall be at the reasonable discretion of the Board.

7.05 Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the owner of the Lot covered by such assessments. Except as otherwise provided in Section 7.01(A) hereof, no Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from due date thereof (or if there is no such highest rate, then at the rate of 1-1/2% per month), together with all costs and expenses of collection, including reasonable attorney's fees.

7.06 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but not paid by the Owner, shall, together with interest as provided in Section 7.05 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust filed of record, securing in either instance sums borrowed for the acquisition or improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the

Board and an officer of the Association, duly authorized by the Board, shall effectuate such subordination. To evidence an Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a description of the Lot. Such notice shall be signed by an officer of the Association, duly authorized by the Board, and shall be recorded in the office of the County Clerk of Brazos County, Texas. Such lien for payment of Assessments shall attach with the priority above set forth from the date such payment becomes delinquent, and may be enforced subsequent to the recording of a notice of Assessment lien as provided above, by the foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property, or the Association may institute suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee the status of any Assessments relating to the Mortgagee's mortgage and remaining unpaid for longer than thirty (30) days after due.

#### **ARTICLE 8 EASEMENTS**

8.01 Reserved Easements. All dedications, limitations, restrictions, and reservations shown on any plat covering all or any portion of the Property and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most effectively, efficiently and economically developing and marketing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, common areas, rights-of-way and easements for public utility purposes (including, without limitation,

gas, cable, water, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, any such easement having a maximum width of seven and one-half feet (7-1/2') on each side of such Lot line.

8.02 Installation and Maintenance. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, if any, no structure or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction or flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all Improvements in such area shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. Neither Declarant nor any utility company using the easements herein or referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants to shrubbery, trees, lawns or flowers or other property of the Owners situated on the land covered by said easements.

8.03 Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity reasonably relating to the construction, maintenance, operation or repair of any facility in any such easement area.

8.04 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Committee thereon require. Each Owner further covenants not to disturb any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as may be approved in writing by the Architectural Committee.

8.05 Blanket Easement. An easement is hereby retained in favor of the Association over all Lots and the Common Areas for the purpose of enforcing the CASTLEGATE II Residential Restrictions in accordance with Section 5.04(E) hereof, and for the

construction of a common cable television system, a common sprinkler system, maintenance of landscaping, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of repairing and maintaining any such system so constructed. An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed as trespass.

**ARTICLE 9  
MISCELLANEOUS**

9.01 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2050, unless amended as herein provided. After December 31, 2050, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each,

unless amended as provided in Section 9.03 below or terminated by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the Property then subject to this Declaration, and filed of record in the Official Records of Brazos County, Texas.

9.02 Dissolution. Upon termination of this Declaration in accordance with Section 9.01 above, the Association shall be dissolved. In the event of any such dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to any appropriate public agency to be used for purposes similar to those of the Association with respect to the Common Areas. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

9.03 Amendment.

(A) By Declarant. This Declaration may be amended by the Declarant, acting alone, until November 1, 2020, and thereafter for so long as Declarant holds a majority of the votes of the Association. No amendment by Declarant shall be effective until there has been recorded in the Official Records of Brazos County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment, and, if amended after

November 1, 2020, an instrument executed and acknowledged by the Secretary of the Association, certifying that the Declarant had the requisite number of votes.

(B) By Owners. In addition to the method in Section 9.03 (A), after November 1, 2020, this Declaration may be amended by the recording in the Official Records of Brazos County of an instrument executed and acknowledged by the President and Secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least sixty percent (60%) of the number of votes entitled to be cast pursuant to Section 5.03 hereof.

9.04 Notices. Any notice permitted or required by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

9.05 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed, governed and enforced under the laws of the State of Texas.

9.06 Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to (i) excavate and grade, (ii) construct and alter drainage patterns and facilities, (iii) construct any and all other types of Improvements, sales and leasing offices, and similar facilities, and (iv) post signs incidental to construction, sales, and leasing anywhere within the Property.

9.07 Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other person or entity and may permit



the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

9.08 Enforcement and Nonwaiver.

(A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce any and all of the provisions of the CASTLEGATE II Residential Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

(B) Nonwaiver. The failure to enforce any provision of the CASTLEGATE II Residential Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

(C) Liens. The Association shall have the right, when appropriate in this judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

9.09 Construction.

(A) Restrictions Severable. The provisions of the CASTLEGATE II Residential Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine, and neuter.

(C) Sole and Absolute Discretion. Notwithstanding anything herein to the contrary, whenever a party to this Declaration is entitled to exercise its "sole and absolute discretion", such discretion may be exercised by that party for any

reason or for no reason, whether such discretion is arbitrary, uncontrolled or unreasonable. Any parties' exercise of its "sole and absolute discretion" shall be final and shall not be subject to appeal or be subject to adjudication by a court of law, arbitration, mediation, or otherwise.

(D) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles.

(E) Deadlines on Business Day. If any deadline in this Declaration should fall on a Saturday, Sunday or a Texas or federal holiday, such deadline shall automatically be extended to the next business day.

(F) Choice of Law. This Declaration shall be construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective as of the 20<sup>th</sup> day of March, 2017.

DECLARANT:

DOS DORADO DEVELOPMENT, L.L.C. d.b.a.  
3-D DEVELOPMENT, a Texas limited liability  
company

By: Vicki Hillert, agent  
Vicki Hillert, Agent

GREENS PRAIRIE INVESTORS, LTD.  
By: Greens Prairie Associates, LLC, its general  
partner

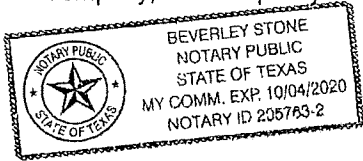
By: Vicki Hillert, Vice-President

Vicki Hillert, Vice President

STATE OF TEXAS

COUNTY OF BRAZOS

This instrument was acknowledged before me on the 20 day of March, 2017, by Vicki Hillert Agent for DOS DORADO DEVELOPMENT, L.L.C. d.b.a. 3-D DEVELOPMENT, a Texas limited liability company, on behalf of said company, in the capacity therein stated.

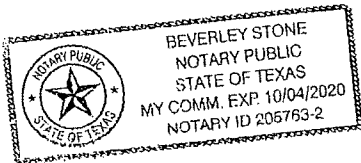


Beverley Stone  
NOTARY PUBLIC, State of Texas

STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 20 day of March, 2017, by Vicki Hillert, Vice President of Greens Prairie Associates, LLC, general partner of GREENS PRAIRIE INVESTORS, LTD., on behalf of said partnership, in the capacity therein stated.



Beverley Stone  
NOTARY PUBLIC, State of Texas

**EXHIBIT "A"**

- (1) All that certain property described as Section 100, Castlegate II, as depicted on plat recorded in Volume 11456, Page 161, Official Records, Brazos County, Texas.
- (2) All that certain property described as Section 101, Castlegate II, as depicted on plat recorded in Volume 11731, Page 266, Official Records, Brazos County, Texas.
- (3) All that certain property described as Section 102, Castlegate II, as depicted on plat recorded in Volume 12107, Page 123, Official Records, Brazos County, Texas.
- (4) All that certain property described as Section 103, Castlegate II, recorded in Volume 12042, Page 98, Official Records, Brazos County, Texas.
- (5) All that certain property described as Section 104, Castlegate II, recorded in Volume 12411, Page 25, Official Records, Brazos County, Texas.
- (6) All that certain property described as Section 105, Castlegate II, as depicted on the plat of Section 105, recorded in volume 12633, Page 180, Official Records.
- (7) All that certain property described as Section 106, Castlegate II, but not yet platted, and described by metes and bounds as a 8.447 acre tract.
- (8) All that certain property described as Section 107, Castlegate II, but not yet platted, and described by metes and bounds as a 8.405 acre tract.
- (9) All that certain property described as Section 200, Castlegate II, recorded in Volume 10392, Page 260, and partial replats thereof recorded in Volume 10511, Page 39, Volume 10906, Page 267, and Volume 12254, Page 263, Official Records, Brazos County, Texas.
- (10) All that certain property described as Section 201, Castlegate II, recorded in Volume 10906, Page 268, Official Records, Brazos County, Texas.
- (11) All that certain property described as Section 202, Castlegate II, recorded in Volume 11061, Page 31, Official Records, Brazos County, Texas.
- (12) All that certain property described as Section 203, Castlegate II, recorded in Volume 11898, Page 32, Official Records, Brazos County, Texas.
- (13) All that certain property described as Section 204, Castlegate II, depicted in plat recorded in Volume 12633, Page 181, Official Records, Brazos County, Texas.

(14) All that certain property described as Section 205, Castlegate II, depicted in plat recorded in Volume 12241, Page 68, Official Records, Brazos County, Texas.

(15) All that certain property described as Section 206, Castlegate II, recorded in Volume 13131, page 71, Official Records, Brazos County, Texas.

(16) All that certain property described as Section 207, Castlegate II, recorded in Volume 13742, page 232, Official Records, Brazos County, Texas.

(17) All that certain property described as Section 208, Castlegate II, recorded in Volume 13439, page 51, Official Records, Brazos County, Texas.

(18) All that certain property described as Section 209, Castlegate II, recorded in Volume 13871, page 150, Official Records, Brazos County, Texas.

(19) All that certain property to be described as Section 210, Castlegate II, not yet platted, but in preliminary development and scheduled to be platted.

(20) Any other land described as the Property in the Prior Declarations, if not listed above.