20140216199
05/21/2014 ER $280.00

AMEND
X

RESTATED AND AMENDED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ENCLAVE AT SCHULER

1EE

NOTICE: THIS DOCUMENT SUBSTANTIALLY EFFECTS YOUR RIGHTS AND OBLIGATIONS AS AN OWNER OF PROPERTY IN THIS SUBDIVISION. *READ IT CAREFULLY*. WITHOUT LIMITATION, YOU ARE SPECIFICALLY ADVISED AS FOLLOWS: (i) ARTICLE III PROVIDES FOR MANDATORY MEMBERSHIP IN A PROPERTY OWNERS' ASSOCIATION, AND FOR MANDATORY PAYMENT OF ASSESSMENTS TO THE ASSOCIATION AND A CONTINUING LIEN AGAINST YOUR PROPERTY TO SECURE PAYMENT OF ASSESSMENTS WHICH MAY BE FORECLOSED EVEN IF THE PROPERTY IS YOUR HOMESTEAD, (ii) ALL OWNERS AND TENANTS ARE REQUIRED TO MAINTAIN CAPABILITIES FOR RECEIPT OF NOTICES AND OTHER COMMUNICATIONS AND FOR PARTICIPATION IN MEETINGS BY "ELECTRONIC MEANS" (SEE SECTIONS 1.02.5, 3.01.3(g) & 6.04), (iii) PRIVATE DRIVEWAYS FOR PARKING AS TO INDIVIDUAL LOTS WILL NOT BE AVAILABLE, PARKING UPON ANY SHARED DRIVE IS PROHIBITED (EXCEPT TEMPORARY PARKING), SPECIFIC GUEST PARKING AREAS WITHIN THE SUBDIVISION WILL NOT BE AVAILABLE, AND STREET AND OTHER PARKING BY OWNERS, OCCUPANTS AND GUESTS IS OTHERWISE LIMITED AND HIGHLY REGULATED (SEE SECTIONS 2.03 & 2.05.2), (iv) DECLARANT RETAINS SUBSTANTIAL RIGHTS UNDER THE DECLARATION, INCLUDING AS PROVIDED IN EXHIBIT "A" TO THE DECLARATION AND ESPECIALLY DURING THE DEVELOPMENT PERIOD, INCLUDING THE UNILATERAL RIGHT TO DETERMINE AND IMPOSE ASSESSMENTS, AND, WITHOUT NOTICE TO OR CONSENT OF ANY OWNER, TO ANNEX ADDITIONAL PROPERTIES INTO THE SUBDIVISION, TO AMEND ANY PLAT AND TO AMEND THIS DOCUMENT AND ANY OTHER GOVERNING DOCUMENTS, AND (v) SECTION A9.01 OF EXHIBIT "A" TO THE DECLARATION SETS FORTH PROCEDURES REGARDING MANDATORY DISPUTE RESOLUTION, INCLUDING A REQUIREMENT THAT A DISPUTE NOTICE MUST BE GIVEN TO DECLARANT WITHIN 120 DAYS AND ESTABLISHMENT OF A MAXIMUM TWO YEAR STATUTE OF LIMITATIONS. YOUR RIGHTS TO ASSERT A "DISPUTE" MAY BE LOST IF YOU FAIL TO COMPLY WITH SECTION A9.01.

AFTER RECORDING RETURN TO:
WILLIAMS, BIRNBERG & ANDERSEN, L.L.P.
Attn: Lou W. Burton
2000 Bering Drive, Suite 909
Houston, Texas 77057-3746

ER 057 - 02 - 1208

RESTATED AND AMENDED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ENCLAVE AT SCHULER

A RESIDENTIAL SUBDIVISION IN HARRIS COUNTY, TEXAS

TABLE OF CONTENTS

F:\wp\LWB\ba\DWH\6.0 Sub\Schuler\Decl-Res & Amend\Decl-TOC.wpd

RESTATED AND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

ENCLAVE AT SCHULER

A RESIDENTIAL SUBDIVISION IN HARRIS COUNTY, TEXAS

STATE OF TEXAS §
§ KNOW ALL BY THESE PRESENTS THAT:
COUNTY OF HARRIS §

WHEREAS, the undersigned **WEEKLEY HOMES, LLC**, a Delaware limited liability company (herein referred to as "Declarant"), is the current sole Owner of all that certain real property located in Harris County, Texas, as more particularly described in **Section 1.01** hereof; and said parties desire to create and carry out a general and uniform plan for the improvement, development, maintenance, use and continuation of a residential community within the Subdivision as described in **Article I** hereof for the mutual benefit of the Owners and their successors in title which Subdivision will be conveyed subject to the covenants, conditions, restrictions, liens, charges and easements as herein set forth.

NOW, THEREFORE, in order to carry out a uniform plan for the improvement, development, maintenance, sale and use of the properties within the Subdivision as herein defined, it is hereby declared that all of the properties within the Subdivision will be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens (sometimes herein collectively referred to as "covenants and restrictions"), all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of said properties. These covenants and restrictions run with the said Subdivision and are binding upon all parties having or acquiring any right, title, or interest in the said Subdivision or any part thereof, their heirs, predecessors, successors and assigns, and inure to the benefit of each Owner thereof.

Article I
Property Subject to This Declaration; Definition

SECTION 1.01 Property Subject to Declaration. The real property which, by the recording of this Declaration, will be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is that certain real property located in Harris County, Texas, more particularly described as follows, to wit:

> ENCLAVE AT SCHULER, an addition in Harris County, Texas according to the maps or plats thereof filed, respectively, under Clerk's File No. 20130478516, Official Public Records of Real Property of Harris County, Texas, and recorded in Clerk's Film Code No. 657280, Map Records of Harris County, Texas.

SECTION 1.02 Definitions. Unless the context otherwise prohibits and in addition to other defined terms set forth herein, the following words and substantive provisions regarding same when used in this Declaration apply, mean and refer to the following:

1.02.1 "Association" means ENCLAVE AT SCHULER HOMEOWNERS' ASSOCIATION, a Texas unincorporated nonprofit association established as provided in **Article III** hereof for the purposes contemplated by this Declaration and other governing documents, and its successors and assigns.

1.02.2 "Declarant" means WEEKLEY HOMES, LLC, a Delaware limited liability company, and its successors and assigns.

1.02.3 "Declaration" means this Restated and Amended Declaration of Covenants, Conditions, Restrictions and Easements for Enclave at Schuler, and all lawful amendments thereto.

1.02.4 "Development Period" means the period of time beginning on the date of recordation of this Declaration in the Official Public Records of Real Property of Harris County, Texas, during which Declarant retains and reserves as provided herein rights (i) to facilitate the development, construction, and marketing of the Subdivision, and (ii) to direct the size, shape, and composition of the Subdivision, and ending on the earlier occurrence of either of the following events:

(a) ninety days after written notice is given to Declarant of election by Owners of an Owner Representative at the First Election Meeting of Owners as provided in **Section A5.01** of Exhibit "A" hereto;

(b) one-hundred twenty days after the date of filing of the deed in the Official Public Records of Real Property of Harris County, Texas conveying title to the last Lot in the Subdivision to an Owner other than Declarant or a builder; or

(c) upon giving of written notice to all Owners of termination of the Development Period, effective upon the date of such notice or such later date as stated therein; provided that at any time prior to complete termination of the Development Period Declarant may give one or more written notices to Owners of limited termination of the Development Period to apply only to the specific functions, rights and/or responsibilities as stated therein.

1.02.5 "Electronic Means" means and refers (i) in general to any method of communications by email, by facsimile, or by posting on or other method of communication via an Internet website whereby the identity of the sender and receipt by the recipient can be confirmed, and (ii) as to any Meeting of Owners or as to any other communications among Owners or between Owners and the Owner Representative, to any method of telephonic or electronic communications, including any method of communication via an Internet website, whereby each participant may hear and be heard by every other participant. It is the responsibility of each Owner and tenant to obtain and maintain confirmation of receipt of communications by Electronic Means, and to provide the same upon request. It is the obligation of each Owner and tenant to maintain the capability to communicate and participate as aforesaid by Electronic Means, including as set forth in **Sections 3.01.3** and **6.04**.

1.02.6 "Lot" means any of the numbered plots of land shown on the Plat upon which a single family residence is, or may be, built.

1.02.7 "Meeting of Owners" means any meeting of the Owners conducted in accordance with **Section 3.01**, including any alternative forms of meetings and any other vote, approval or consent of Owners conducted or obtained in accordance with **Section 3.01**.

1.02.8 "Owner" means, the owner according to the Official Public Records of Real Property of Harris County, Texas, whether one or more Persons, of the fee simple title to a Lot, including any mortgagee or other lien holder who acquires such ownership through judicial or non-judicial foreclosure or proceedings in lieu thereof, but excluding any Person holding a lien or other encumbrance, easement, mineral interest or royalty interest burdening title or otherwise having an interest merely as security for the performance of an obligation.

1.02.9 "Owner Representative" means the administrative officer of the Association entitled to manage, administer and direct the affairs of the Association in accordance with this Declaration.

1.02.10 "Person" means and includes any natural person, corporation, joint venture, partnership, association, trust, business trust, estate government or governmental subdivision or agency, and any other legal entity.

1.02.11 "Plat" means the map or plat of the Subdivision as described in **Section 1.01**, and all lawful modifications, amendments and/or replats of any of the foregoing.

1.02.12 "Related Parties" means and applies as follows:

(a) Owners and Tenants. Tenants of each Owner are Related Parties of that Owner, and with respect to each such Owner and each such tenant, Related Parties of each include **(i)** their respective family and other household members (including in particular but without limitation all children and other dependents), **(ii)** their respective guests, invitees, servants, agents, representatives and employees, and **(iii)** all other Persons over which each has a right of control or under the circumstances could exercise or obtain a right of control.

(b) Association, Owner Representative, Declarant and Authorized Builders. Related Parties of the Association, Owner Representative, Declarant and any Authorized Builder include their respective officers, directors, partners, co-venturers, committee members, servants, agents, representatives and employees regarding all acts or omissions related to any of the foregoing representative capacities.

1.02.13 "Rules and Regulations" means all rules, guidelines, including architectural guidelines, policies and procedures, including all policies or procedures regarding or as permitted or required by law, including Chapters 202, 204 or 209 of the Texas Property Code, concerning or regulating the appearance, maintenance, operation, use or occupancy of the Subdivision, and/or any Lot or other properties within the Subdivision, and/or any Subdivision Facilities, or rights or obligations of Owners regarding the Association, as from time to time adopted in accordance with **Section 2.20** hereof, regardless of nomenclature or manner of designation.

1.02.14 "Subdivision" means the residential community as more particularly described in **Section 1.01** hereof, and any other real Subdivision subjected to this Declaration as herein provided from time to time.

1.02.15 "Subdivision Facilities". means, subject to applicable provisions of Exhibit "A" hereto, all common areas so designated herein or by the Plat which are intended for the common use of Owners, and all other facilities and services build, installed, maintained, operated or provided for the common use or benefit of the Owners, including without limitation (i) the private street designated as "16' Shared Driveway" on the Plat which is herein sometimes referred to as the "Shared Drive", (ii) all Subdivision Fencing (as defined in **Section 2.12**), including all Subdivision main entry fences, walls, and/or entry and other identification monuments, and any controlled access gate, guardhouse, related structures and devices,

and any other "access limiting devices" (as defined in **Section 2.12**), and (iii) any other buildings, structures, facilities, devices or services (including trash collection and landscape maintenance services, if any) designated as Subdivision Facilities by Declarant during the Development Period or by the Owners thereafter as provided herein.

Article II
General Restrictions, Covenants and Conditions

SECTION 2.01 Residential Use; Group Homes; Treatment Facilities.

2.01.1 General. Each and every Lot is hereby restricted to single family residential use only. No residence may be occupied by more than one single family.

2.01.2 No Business, Professional, Commercial or Manufacturing Use. No business, professional, commercial or manufacturing use may be made of any Lot or any improvement located thereon, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises as a residence, and regardless of whether or not done for profit or remuneration. Notwithstanding the foregoing, a single family residence may be used for maintenance of a personal professional library, keeping of personal or professional records or accounts, or handling personal business or professional telephone calls, or for maintenance of one home office, but if and only if such business activity **(i)** does not involve use of any part of the applicable Lot, or residence or other building or improvement thereon, by any Person other than the Owner or the Owner's tenant (but not both), no on-site employees are otherwise permitted, and the public is not invited, permitted or allowed to enter the Lot to conduct any business thereon, **(ii)** is not detectable by sight, sound or smell from outside the residence, and there is no other external evidence thereof (including signs, advertising, or contacts in person at the residence with clients or customers), **(iii)** does not involve the storage of any equipment, materials or devices other than as consistent with operation of a small home office, and in all events which are not hazardous and do not constitute any type of threat to health or safety or other nuisance, **(iv)** complies with all applicable governmental ordinances (including zoning ordinances), and with any other governmental laws, rules, regulations and permitting or licensing requirements applicable to same, **(v)** is consistent with the residential character of the Subdivision, and **(vi)** does not cause any annoyance or unreasonable inconvenience to Owners or occupants of area Lots.

2.01.3 Residential Use Only. Without limitation of the foregoing, as used in this Declaration the term "residential use" prohibits the use of any Lot or the residence thereon for apartment houses or other type of dwelling designed for multi-family dwelling, or use for or operation of a boarding or rooming house or residence for transients, or the use of any permitted outbuilding as an apartment or residential living quarters.

2.01.4 Maximum Occupancy. In addition to the limitations above set forth, in no event may a single family residence be occupied by more persons than the product of the total number of bona fide bedrooms contained in the single family residence multiplied by two. The number of bona fide bedrooms is based on the single family residence as originally constructed, plus any additional bedroom(s) which may thereafter be added which have been specifically approved by the Owners as herein provided for such use, if any.

SECTION 2.02 Pets, Animals and Livestock. No animals, hogs, horses, livestock, reptiles, fish or poultry of any kind may be raised, bred, kept or maintained on any Lot at any time except "Permitted Pets" which are dogs, cats and other usual and customary household pets. Not more than two Permitted Pets are allowed per Lot, and no Permitted Pets may be raised, bred, kept or maintained for commercial purposes.

Subject to **Section 2.04**, the foregoing limitation on the number of Permitted Pets does not apply to hamsters, small birds, fish or other similar usual and customary household animals, birds or fish which are continuously kept completely within a residence, and does not require the removal of any litter born to a Permitted Pet prior to the time that the animals in such litter are three months old. Notwithstanding the foregoing, the following are hereby excluded as Permitted Pets and are not allowed within any residence, upon any Lot or at any other place within the Subdivision: (i) any dog whose breed is known for and on any occasion has exhibited its viciousness or ill temper, in particular, the American Staffordshire Terrier, known as a "Pit Bull Terrier", and (ii) any animal of any kind that has venom or poisonous or capture mechanisms, or if let loose would constitute vermin. All Permitted Pets must be kept on a leash or carried, and must otherwise be maintained under the control of their Owner when outside the Owner's residence or when not maintained in an enclosed yard from which the Permitted Pet cannot escape.

SECTION 2.03 Vehicles; Parking.

2.03.1 Prohibited Vehicles; Covers Prohibited. No boat, mobile home, trailer, boat or truck rigging, truck larger than a three-quarter ton pick-up, recreational vehicle, bus, unused vehicle, or inoperable vehicle of any kind (including any vehicle requiring the same which does not have both a current and valid license plate and a current and valid state inspection sticker), no over-sized vehicle, and no unsightly vehicle or vehicle (including without limitation, any motor bikes, motorcycles, motorscooters, go-carts, golf-carts or other similar vehicles) which by reason of noise, fumes emitted, or by reason of the manner of use or operation, constitute a nuisance, as may be determined at any Meeting of Owners, may be parked, stored or kept at any time at any location within the Subdivision, including without limitation upon any street or Shared Drive or upon any other part of any Lot, unless such vehicle is stored completely within a garage. "Oversized vehicle" means any vehicle which exceeds in size six feet six inches (6'6") in height, seven feet six inches (7'6") in width, and/or twenty-one feet (21') in length. Use of vehicle covers of any kind (except for vehicles parked completely in a garage) is prohibited.

2.03.2 Prohibited Parking - General. No vehicle of any kind may be parked, stored or otherwise permitted to remain at any time **(i)** on grass or any other similar portion of any Lot or any other place within the Subdivision not intended customarily for use for parking of vehicles, or **(ii)** in a slanted or diagonal manner across any driveway or other designated parking space, or in any other manner other than as is customary for the type of parking space being used, or **(iii)** in such manner as to obstruct or impede sidewalk, driveway or street access or usage, or in such manner that any part of the vehicle extends in to or across any part of any sidewalk, street or Shared Drive. No Owner or resident is permitted to park or store any vehicle on the Lot of another Owner or resident.

2.03.3 PARKING.

(a) Definitions of "Vehicle" and "Occupant Vehicle". As used in this **Section 2.03**, and in this Declaration and other Governing Documents as applicable, the following definitions apply:

(1) "Vehicle" means a device in, on, or by which a person or property may be transported, including an operable or inoperable automobile, truck, motorcycle, recreational vehicle, trailer, and such other devices as from time to time specified by applicable Rules and Regulations.

(2) "Occupant Vehicle" means each and all permitted Vehicles as to each Lot which are owned and/or operated by **(i)** any single family member or other occupant residing at the Lot, and any housekeeper and any other domestic servants as to each single family residence, regardless of the duration the vehicle is parked, stored, operated or kept within the Subdivision, and **(ii)** any other person visiting or staying at the Lot or who otherwise parks, stores, operates or keeps any vehicle within the

Subdivision at any time during and for any duration of time during a day (y) on any three days or more in any calendar week, or (z) on any five days or more in any calendar month or in any consecutive 30-day period.

(b) Parking - Occupant Vehicles.

(1) NO LOT WITHIN THE SUBDIVISION WILL HAVE PRIVATE DRIVEWAYS OF SUFFICIENT SIZE TO PERMIT PARKING THEREIN OF ANY OCCUPANT VEHICLES. ACCORDINGLY AS TO EACH SUCH LOT (I) PARKING OF ANY OCCUPANT VEHICLE IS PROHIBITED ON ANY SUCH PRIVATE DRIVEWAY, AND (ii) PARKING AS TO THE LOT IS RESTRICTED TO THE GARAGE ONLY. AT SUCH TIME WHEN TWO OCCUPANT VEHICLES ARE PARKED IN THE GARAGE AND NOT OTHERWISE, ONE ADDITIONAL OCCUPANT VEHICLE AS TO THAT LOT MAY BE PARKED IN A SHARED DRIVE AS PROVIDED IN **SECTION 2.03.3(f)**. EXCEPT AS AFORESAID, ALL OTHER OCCUPANT VEHICLES AS TO EACH LOT MUST BE PARKED OUTSIDE OF THE SUBDIVISION.

(2) FOR PURPOSES OF COMPLIANCE WITH SUBSECTION (1) ABOVE, "OCCUPANT VEHICLE" INCLUDE ONLY FOUR WHEEL VEHICLES DESIGNED FOR PASSENGER TRANSPORTATION, FAMILY VANS AND SUV'S AND PICK-UP TRUCKS AS OTHERWISE PERMITTED BY THIS **SECTION 2.03**. MOTORCYCLES, MOTOR SCOOTERS, RECREATIONAL VEHICLES, TRAILERS AND ANY OTHER PERMITTED VEHICLES MUST BE PARKED IN THE GARAGE OF THE APPLICABLE LOT, MAY NOT BE PARKED UPON ANY SHARED DRIVE WITHIN THE SUBDIVISION, AND MAY NOT BE COUNTED IN DETERMINING COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION (1) REGARDING THE MINIMUM NUMBER OF OCCUPANT VEHICLES THAT ARE REQUIRED TO BE PARKED IN A GARAGE AND OR UPON A PRIVATE DRIVEWAY.

(3) EXCEPT FOR TEMPORARY PARKING AS HEREAFTER PERMITTED, NO OCCUPANT VEHICLE OF ANY KIND MAY BE PARKED OR STORED AT ANY TIME AT ANY LOCATION UPON ANY SHARED DRIVE (AS DEFINED IN **SECTION 1.02.15**). ACCORDINGLY, ANY OCCUPANT VEHICLE WHICH IS NOT PARKED, KEPT OR STORED WITHIN A GARAGE AS ABOVE PROVIDED MUST BE PARKED OR STORED OUTSIDE OF THE SUBDIVISION.

(4) PARKING OF OCCUPANT VEHICLES UPON AREA PUBLIC STREETS LOCATED OUTSIDE OF THE SUBDIVISION IS PERMITTED, SUBJECT TO APPLICABLE PROVISIONS OF SUBSECTIONS (1) AND (2) ABOVE, AND SUBJECT TO THE RIGHT OF APPLICABLE GOVERNMENTAL AUTHORIZES TO RESTRICT OR PROHIBIT THE SAME AT ANY TIME AND FROM TIME TO TIME.

(c) Verification of Occupant Vehicles. The Owner of each Lot and their tenants, as applicable, must provide to the Association upon not less than ten days written notice a fully completed, dated and signed "Vehicle Information Form" which identifies by make, model, color and year all Occupant Vehicles to be parked, kept or stored within the Subdivision as to such Lot, and which states as to each identified Occupant Vehicle the current license plate and state of issuance, the primary operator of the Occupant Vehicle and the relationship of the operator to the Owner or tenant, as applicable. Without limitation of **Section 2.20** regarding Rules and Regulations, the Owner Representative is also specifically authorized to adopt rules and procedures for registration with the Association of Occupant Vehicles, and/or for mandatory display of identifying stickers, decals or similar identification of Occupant Vehicles. The said rules and procedures may also provide for towing in accordance with **Section 2.03.5** of any vehicle which

is not properly registered with the Association, or which does not display any required identifying sticker, decal or similar identification.

(d) GUEST PARKING. NO AREAS ARE EXPECTED TO BE PROVIDED FOR GUEST PARKING WITHIN THE SUBDIVISION, AND GUEST PARKING UPON ANY AREA STREET MAY ALSO BE RESTRICTED OR PROHIBITED. GUEST PARKING WITHIN THE SUBDIVISION IS THEREFORE RESTRICTED TO THE PERMITTED AREAS FOR PARKING OF OCCUPANT VEHICLES AS APPLICABLE TO THE LOT THE GUEST IS VISITING. IF GUEST PARKING IS PROVIDED, AND UNLESS OTHERWISE PROVIDED BY APPLICABLE RULES AND REGULATIONS (i) OCCUPANT VEHICLES MAY NOT BE PARKED IN ANY GUEST PARKING AREA AT ANY TIME, (ii) ONLY GUEST VEHICLES OF THE TYPE DESCRIBED IN **SECTION 2.03.3(b)** MAY BE PARKED IN ANY GUEST PARKING AREA, (iii) GUEST VEHICLE PARKING IN AVAILABLE GUEST PARKING SPACES IS ON A FIRST-COME, FIRST-SERVE BASIS, AND (iv) NO GUEST VEHICLE MAY BE PARKED IN ANY GUEST PARKING SPACE AT ANY TIME MORE THAN DURING ANY THREE CONSECUTIVE DAYS OR DURING ANY FIVE DAYS IN ANY 30-DAY PERIOD.

(e) Temporary Parking. Temporary parking upon a Shared Drive (as defined in **Section 1.02.15**) is permitted (i) by Occupant Vehicles, guests and invitees, and by pick-up or delivery services, but solely for purposes of loading and unloading of passengers and cargo, and (ii) by other vehicles in connection with the maintenance, repair or reconstruction of a residence or other improvement. Any such temporary parking is subject to applicable provisions of this **Section 2.03** not inconsistent with this subsection, to such Rules and Regulations as from time to time promulgated by the Owners and to other applicable ordinances and laws (such as prohibitions against parking in fire lanes, or in such manner as to block entry to or exit from the Subdivision or any Lots). "Temporary parking" means only for so long a period of time as is reasonably necessary to complete loading, unloading, pick-up or delivery, with such activity commenced promptly after the vehicle is parked and completed promptly thereafter, and only during such period of time as is reasonably required with the exercise of due diligence to commence and complete maintenance, repair or reconstruction. Any parking in excess of twenty consecutive minutes or one hour in any day is presumed not to be temporary. Pick-up or deliveries (such as moving in or out of a residence), or maintenance, repair or reconstruction requiring longer than twenty consecutive minutes or one hour in any day must be coordinated with the Owner Representative and/or the Association's Managing Agent, will be conducted in such manner as to minimize interference with traffic and pedestrian ingress and egress, and will otherwise be conducted in accordance with directives of the Owner Representative and/or Managing Agent and applicable Rules and Regulations. The Owner Representative may prohibit very large and/or heavy vehicles which may cause damage to streets from entering the Subdivision, and in all events, each Owner and their tenant, as applicable, is liable for all damages caused to any street or other property by entry into or parking of any such vehicle in the Subdivision at the request of or on behalf of such Owner or tenant.

(f) STREET USE AND PARKING; OBSTRUCTIONS PROHIBITED.

(1) All streets in the Subdivision including all Shared Drives (as defined in **Section 1.02.15**), whether public or private, are restricted to use for vehicular ingress, egress and regress, parking of vehicles to the extent otherwise permitted by this Declaration, and incidental pedestrian ingress, egress and regress. No object, thing or device may be placed, stored, or maintained within or upon any street, and no activities are permitted thereon which would impede or impair the aforesaid intended uses. Without limitation of the foregoing, no street may be used as a play area or for any other recreational use, no toys, barbeque or other cooking equipment, or any recreational equipment may be placed, maintained or stored within or upon any street, and no persons are permitted to play, loiter, congregate, or roam about within or upon any street. ALL OWNERS AND TENANTS, AND THEIR RELATED PARTIES, ASSUME SOLE

RESPONSIBILITY FOR ALL CONSEQUENCES OF ANY VIOLATIONS OF THE FOREGOING, INCLUDING AS TO ALL DAMAGES FOR PERSONAL INJURY OR OTHERWISE, AND MUST INDEMNIFY AND HOLD DECLARANT, THE ASSOCIATION AND THEIR RELATED Y AND ALL SUCH CONSEQUENCES.

(2) WHEN PARKING OF OCCUPANT OR GUEST VEHICLES IS ALLOWED ON ANY STREET AS ABOVE PROVIDED, THE VEHICLES MUST BE PARKED ALONG THE SIDE OF THE STREET IN FRONT OF, AND ON THE SAME SIDE OF THE STREET OF, THE LOT AT WHICH THE OPERATOR OF THE OCCUPANT VEHICLE RESIDES OR WHICH THE GUEST IS VISITING, OR AS CLOSE THERETO AS CIRCUMSTANCES PERMIT.

(g) RESPONSIBILITIES OF OWNERS AND TENANTS. OWNERS AND THEIR TENANTS MUST OBTAIN FULL COMPLIANCE WITH THE PROVISIONS OF THIS SECTION (INCLUDING RULES AND REGULATIONS ADOPTED PURSUANT TO THIS DECLARATION) BY THEIR RESPECTIVE RELATED PARTIES, AND EACH IS JOINTLY AND SEVERALLY LIABLE FOR ALL VIOLATIONS BY THEIR RESPECTIVE RELATED PARTIES.

(h) NOTICE OF LIMITED PARKING. EXCEPT FOR TEMPORARY PARKING AS ABOVE PROVIDED. PARKING OF VEHICLES WITHIN THE SUBDIVISION IS STRICTLY LIMITED TO PARKING WITHIN THE AREAS AS ABOVE SET FORTH. PARKING ON AREA PUBLIC STREETS MAY ALSO BE LIMITED OR UNAVAILABLE. IN ADDITION, GARAGE SIZES MAY LIMIT AVAILABLE PARKING AS PROVIDED IN **SECTION 2.05.2**. ANY LIMITATIONS AS TO AVAILABLE PARKING UPON ANY LOT, OR ELSEWHERE WITHIN THE SUBDIVISION, OR WITHIN THE AREA, OR AS TO GARAGE SIZE, WILL NOT CONSTITUTE A BASIS FOR NON-COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF THIS DECLARATION AND ALL OTHER GOVERNING DOCUMENTS, OR FOR ANY CLAIM OR LIABILITY WHATSOEVER AS TO DECLARANT, THE ASSOCIATION OR ANY OF THEIR RELATED PARTIES. EACH OWNER OR OCCUPANT ASSUMES ALL RISKS REGARDING ANY AND ALL PARKING LIMITATIONS.

2.03.4 Repair, Rental or Sale of Vehicles Prohibited. No work on any vehicle within the Subdivision, including on any street, or on any Community Properties, or on any Lot, may be performed at any time other than temporary emergency repairs or other work required in order to promptly remove an inoperable or disabled vehicle from the Subdivision or to and completely within a garage. Repair work on any vehicle within a garage is limited to occasional minor repairs on Occupant Vehicles (such as oil changes, headlight bulb replacements and similar minor repairs). Extensive or frequent work (such as in connection with an auto repair or racing hobby or profession) on any vehicles, including any Occupant Vehicles, is prohibited. Without limitation of the foregoing and except for the limited purposes expressly permitted by the foregoing, no vehicle repair, rental or sales business or activities of any kind, whether or not for profit, may be conducted at any time at any location upon any Lot or elsewhere within the Subdivision.

2.03.5 Default.

(a) Presumptive Violations. Any vehicle is conclusively presumed to be "unused" or "inoperable" if the vehicle has not been operated outside the Subdivision for seven or more consecutive days or the vehicle has not been operated outside the Subdivision more than twice in any fourteen day period. The provisions hereof do not prejudice the right of the Association to otherwise establish a violation. The foregoing provisions do not apply to any vehicle completely stored within a garage. The Owner Representative may grant reasonable exceptions to the foregoing upon receipt of written request from an Owner or their tenant.

(b) Towing; Other Remedies. The Association (acting through the Owner Representative, its Managing Agent or other designated representative) may, after two written warnings, cause any vehicle which is parked, stored or maintained in violation of this Declaration or other Governing Documents, or in violation of any ordinance, statute or other governmental regulation, to be removed from the Subdivision to any vehicle storage facility within Harris County, Texas, at the sole cost and expense of the Person owning such vehicle (whether or not such Person is an Owner or tenant), and/or the Owner and/or tenant as to whom such Person is a visitor, guest, invitee or other Related Party. Any such removal may be in accordance with any applicable statute or ordinance, including Chapter 2308 of the Texas Occupations Code, as amended. BY ACCEPTANCE OF ANY RIGHT, TITLE OR INTEREST TO ANY LOT, EACH OWNER, TENANT AND THEIR RELATED PARTIES (i) IRREVOCABLY DESIGNATE AND APPOINT THE ASSOCIATION (ACTING THROUGH THE OWNER REPRESENTATIVE OR ITS MANAGING AGENT) AS ATTORNEY-IN-FACT TO ACT ON BEHALF OF ANY SUCH OWNER, TENANT OR THEIR RELATED PARTIES CONCERNING, DIRECTLY OR INDIRECTLY, TOWING OF ANY VEHICLE WHICH IS PARKED, STORED OR MAINTAINED WITHIN THE SUBDIVISION IN VIOLATION OF THIS DECLARATION OR OTHER GOVERNING DOCUMENTS, AND (ii) AGREES TO INDEMNIFY, PROTECT, DEFEND AND HOLD THE ASSOCIATION AND ITS RELATED PARTIES HARMLESS FROM ANY CLAIMS, DEMANDS, LIABILITIES AND DAMAGES OF WHATSOEVER KIND OR NATURE RELATING, DIRECTLY OR INDIRECTLY, TO THE TOWING OF ANY VEHICLE OR ANY OTHER ENFORCEMENT ACTIONS.

2.03.6 Development Period. In addition to and without limitation of all other applicable provisions of Exhibit "A" to this Declaration, all "Development Personnel" are hereby exempted from the provisions of this **Section 2.03** and any other Governing Documents to the fullest extent deemed necessary or appropriate by Declarant for the conducting of any and all "Development Activities" (as those terms are defined in **Section A4.01** of Exhibit "A" to this Declaration. In addition, Declarant is fully authorized to impose such temporary rules, regulations and parking policies and procedures as Declarant deems necessary or appropriate for the conducting of all Development Activities, and to designate and post by signage or otherwise "no parking" area and/or other applicable rules, regulations and procedures. Declarant's Authority as aforesaid continues through completion of the initial sale (as defined in **Section A2.01** of Exhibit "A" hereto) of the last Lot in the Subdivision, whether or not completion of the initial sale occurs during or after the Development Period.

2.03.7 Other Regulations.

(a) Without limitation of **Section 7.20** regarding Rules and Regulations, the Owners may (but have no obligation to) (i) adopt Rules and Regulations to permit parking of vehicles within a garage, or upon a private driveway or a upon any street or Shared Drive within the Subdivision other than as provided by this **Section 2.03** to the extent deemed appropriate in general, and/or (ii) to otherwise permit variances for such parking in individual cases to accommodate unusual circumstances or alleviate undue hardship, provided that in any such case any variance may be limited in duration, and in all events any such variance will terminate immediately at such time and to the extent the unusual circumstances or hardship are alleviated.

(b) The Owners are also specifically authorized to the fullest extent allowed by law to adopt Rules and Regulations, including policies or procedures, to regulate traffic and parking, including as to (i) the type and/or size of vehicles permitted within the Subdivision, (ii) traffic and parking regulations, including as to speed limits or designations of parking or no-parking areas, (iii) location, use and/or appearance of traffic control devices, including as to signs or speed bumps/humps, and (iv) fines as to, or removal or prohibition of, any vehicle which is kept, operated, stored or parked in violation of this Declaration or other applicable Governing Documents. By acceptance of title to each Lot, each Owner

irrevocably designates and appoints the Association (acting through the Owner Representative or its Managing Agent) as attorney-in-fact to act on behalf of all Owners concerning, and in the execution of all agreements and any other instruments required by applicable law regarding, the imposition, modification, enforcement or removal of any restrictions, limitations, regulations, traffic control devices, or other matters regarding any of the provisions of this subsections.

2.03.8 LIMITATION OF LIABILITY. DECLARANT, THE ASSOCIATION, THEIR RELATED PARTIES, AND ANY PERSON REMOVING ANY VEHICLE AS HEREIN PROVIDED (THE "INDEMNITEES") HAVE NO LIABILITY WHATSOEVER IN CONSEQUENCE OF REMOVAL OF ANY VEHICLE AS HEREIN PROVIDED. THE PERSON OWNING EACH TOWED VEHICLE (WHETHER OR NOT SUCH PERSON IS AN OWNER) AND THE OWNER AND OWNER'S TENANT AS TO WHOM SUCH PERSON IS A VISITOR, GUEST, INVITEE, OR OTHER RELATED PARTY, MUST HOLD ALL SUCH INDEMNITEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LIABILITIES OR DAMAGES ARISING, DIRECTLY OR INDIRECTLY, AS RESULT OF SUCH REMOVAL. THE PROVISIONS HEREOF ARE CUMULATIVE OF THE PROVISIONS OF **SECTIONS 2.03.3** and **3.04.**

SECTION 2.04 Nuisance; Unsightly or Unkempt Conditions.

2.04.1 General. It is the continuing responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No Lot may be used, in whole or in part, for the storage of any property or thing that may cause such Lot to appear to be in an unclean or untidy condition, or that may be obnoxious to the eye. No hobbies or activities which may cause disorderly, unsightly, or unkempt conditions, including without limitation the assembly or disassembly of or repair work on motor vehicles or other mechanical devices, may be performed within the Subdivision. There may not be maintained any plants, animals, devices, thing, use or activities of any sort which in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the residents of the Subdivision.

2.04.2 Nuisance or Annoyance. No substance, thing, or material may be kept upon any Lot that may emit foul or obnoxious odors, or that may cause any noise or other condition that may disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive trade or activity may be carried on upon any Lot, nor may anything be done thereon tending to cause embarrassment, discomfort, annoyance, or a nuisance to any residents of the Subdivision or to any Person using any property adjacent to the Lot. No spirituous, vinous, malt, medicated bitters, alcohol, drugs or other intoxicants may be sold or offered for sale on any part of any Lot or any other place within the Subdivision. No Lot or any part thereof may be used for any immoral or illegal purposes.

2.04.3 Pollutants; Hazardous Materials. Without limitation of any other provisions of this Section, no Owner or tenant, and Related Parties of either, may dump grass clippings, leaves or other debris, detergents, petroleum products, fertilizers, or other pollutants or potentially hazardous or toxic substances, in any sewer system, water system, drainage ditch, stream, pond or lake within the Subdivision, or do any thing or maintain or permit any condition in violation of applicable environmental, toxic or hazardous waste or similar laws, rules or regulations. Storage of gasoline, heating or other fuels, or of any hazardous or toxic materials upon any Lot is strictly prohibited (except that up to five gallons of fuel may be stored upon a Lot for emergency purposes and operation of lawn mowers and similar tools or equipment if properly kept and stored in a safe and non-hazardous manner). THE FOREGOING DOES NOT PLACE UPON DECLARANT OR ANY OF ITS RELATED PARTIES ANY OBLIGATION FOR ENFORCEMENT OF ANY APPLICABLE ENVIRONMENTAL, TOXIC OR HAZARDOUS WASTE OR SIMILAR LAWS, RULES OR REGULATIONS.

2.04.4 Sound Devices; Excessive Noise. No exterior speaker, horn, whistle, bell or other sound device may be located, placed or used upon any Lot or improvement thereon. No stereo, television, speaker, horn, whistle, bell or other sound device may be operated within, and no other sound emitting activity (such as practice of a band, excessively loud social gatherings and similar activities) may be conducted within a residence, garage or other structure which is audible from inside of any closed adjacent or area residence or unreasonably audible outside the Lot lines of the Lot upon which the applicable residence, garage or other structure is located, or which is otherwise an annoyance or nuisance to any other residents.

SECTION 2.05 Type of Residence.

2.05.1 Single Family Residence. No building other than one single family residence not to exceed three stories which is to be occupied as a residence by one single family, an appurtenant garage and such outbuildings if and as may be approved in writing by the Owners may be constructed, placed or permitted to remain on each Lot. Without limitation of the foregoing, the term "single family residence" prohibits garage apartments, apartment houses, and any other multi-family dwelling.

2.05.2 Garages and Garage Doors. All single family residences must have an enclosed attached or detached minimum two car parking garage. Each such garage must contain a minimum of three hundred fifty (350) square feet of interior floor space. GARAGES MAY NOT BE OF SUFFICIENT SIZE TO PERMIT PARKING THEREIN OF TWO LARGE VEHICLES SUCH AS TWO SUV'S. ANY SUCH LACK OF PARKING SIZE IS NOT BE A BASIS FOR EXEMPTION FROM APPLICABLE PARKING RESTRICTIONS. The garage must be architecturally similar and compatible to the appurtenant residence, including as to roof line and appearance. Except for porte-cocheres, carports on Lots are prohibited. All garages must be enclosed with permanent walls, and their fronts must be enclosed with standard type overhead doors customarily used in the building industry. All garage doors must be maintained in good working order at all times. ANY REPLACEMENT GARAGE DOOR MUST BE OF EQUAL OR BETTER QUALITY AND SUBSTANTIALLY THE SAME TYPE, STYLE DESIGN AS THE GARAGE DOOR FOR THE GARAGE AS ORIGINALLY CONSTRUCTED, AND MUST BE PAINTED TO MATCH THE COLOR SCHEME OF THE RESIDENCE AS ORIGINALLY CONSTRUCTED OR A SUBSEQUENT COLOR SCHEME WHICH HAS BEEN APPROVED BY THE OWNERS AS PROVIDED IN **SECTION 3.03.** Except for interior modifications of a garage wholly consistent with its use as a garage and which do not alter the use or exterior appearance of the garage as originally constructed, no modification of the interior or exterior of any garage as originally constructed is permitted. GARAGE DOORS MUST BE KEPT CLOSED AT ALL TIMES EXCEPT FOR ENTRY AND EXIT OF VEHICLES OR DURING BRIEF PERIODS WHEN THE GARAGE IS BEING ACTIVELY USED FOR CUSTOMARY PURPOSES.

2.05.3 Prohibited Homes and Structures. No tent, shack, mobile home, or other structure of a temporary nature must be placed upon any Lot or elsewhere in the Subdivision. Manufactured homes, industrialized homes, industrialized buildings and any other type of residence, including any garage, which is constructed or assembled other than primarily on site are not permitted on any Lot. No residence, building or structure may be moved from another location to any Lot without prior approval of Owners as provided in **Section 3.03**. The foregoing prohibition does not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Lot, provided it receives the prior approval of Owners as provided in **Section 3.03**.

2.05.4 Roof Materials. Roofs of all residences must be constructed so that the exposed material is composition type shingles, or such other material which is compatible in quality and appearance to the foregoing as may be approved by the ACC. All garage roofs, and roofs of any gazebo or outbuildings as may be approved by the ACC, must match the residence. Wood shingles of any type are prohibited on any

residence, building or structure. "Energy Efficient Roofing" is permitted as provided in **Section 2.15**. Architectural metal roofs not to exceed 10% of the total roof are allowed as otherwise approved by the ACC.

SECTION 2.06 Requirement for and Location of Residence. Each and every Lot within the Subdivision must have a substantially completed single family residence constructed thereon prior to commencement of the use thereof for residential purposes. No single family residence may be located upon any Lot except in accordance with building setback lines shown on any applicable Plat, and as established by this Declaration or applicable governmental requirements. Subject to the foregoing, no part of any residence, garage or other structure must be located nearer than three feet from any boundary line of any Lot; provided, however, Declarant and only Declarant may locate or approve location of one or more walls of a single family residence or garage on or within one foot of any side Lot line (a "Zero Lot Line"). For the purposes of this Section, eaves, roof overhangs, steps, fireplaces, chimneys, bay windows, unroofed terraces and similar architectural detail which is a part of a permitted residence or garage is not to be considered as part of a residence or garage.

SECTION 2.07 Drainage Easements and Devices. During the Development Period Declarant (and any builder so authorized by Declarant) is hereby specifically authorized to excavate as necessary for and to establish, construct and maintain drainage swales, erosion control systems and such other things and devices (herein referred to as "Drainage Devices") upon, over, across or under any part of the Subdivision, including any Lot, as Declarant deems appropriate to properly maintain and control water drainage and erosion. All Drainage Devices must remain unobstructed, and must be properly maintained by and at the sole cost of the Owner of each Lot to which same pertains or, when any Drainage Device serves more than one Lot (such as in the case of guttering on residences connected to a common line), then maintenance and the costs thereof must be shared pro rata by all of the Owners to which same pertains. Each Owner must refrain from permitting any construction, grading and any other work, act or activity upon such Owner's Lot which would obstruct, alter, divert, impede or impair the proper functioning of any Drainage Device. In addition, each Owner must perform such work, act or activities and install and maintain such Drainage Devices **(i)** as is reasonably necessary to prevent so far as practical drainage from the Owner's Lot to any other Lot, other than drainage along established swales and along drainage patterns as established during initial construction, and **(ii)** as needed to maintain so far as practical positive drainage away from the foundation of the residence located upon the Owner's Lot. Without limitation of the foregoing, no Owner may place or permit placement of any flower bed or other landscaping, or any other structure or thing along or near any Lot line which would obstruct, alter, divert, impede, or impair drainage along any Lot line within any swale or otherwise within drainage patterns as established during initial construction.

SECTION 2.08 Lot Resubdivision or Combination. Unless approved by Declarant in writing, no Lot as originally conveyed by Declarant to any Person, including a builder, may thereafter be subdivided or combined with any Lot, or the boundaries thereof otherwise changed.

SECTION 2.09 Disposal of Trash. No trash, rubbish, garbage, manure, debris or offensive material of any kind may be kept or allowed to remain on any Lot, and no Lot may be used or maintained as a dumping ground for any such materials. No incinerator may be maintained on any portion of the Subdivision. All trash and similar matter to be disposed of must be placed in cans or similar receptacles with tight fitting lids or plastic bags tied or otherwise tightly secured, and must be placed in an area adequately screened by planting or fencing from public view or within a garage except when placed for regular pickup as herein provided. Equipment used for the temporary storage and/or disposal of such material prior to removal must be kept in a clean and sanitary condition, and must comply with all applicable federal, state, county, municipal or other governmental laws and regulations. All such prohibited matter must be removed from Lot at regular intervals if not removed or removable by a regular garbage and sanitation service. Trash and garbage for pickup by a regular service must be placed in such area or areas as a majority of the Owners may

from time to time direct, or as the applicable garbage and sanitation service or provider (e.g. City of Houston or a private garbage collection company) may require, and if so required by a garbage and sanitation service or provider, trash may be placed for puck-up by an Owner of one Lot upon another Lot. Trash and garbage may not be placed for pickup earlier than eight (8) hours prior to a scheduled pickup day and all receptacles therefor and any remaining trash and garbage must be removed from the pickup site by midnight of the pickup day.

SECTION 2.10 Signs. As used in this Section, "sign" means and includes any billboards, posters, banners, flags (subject to applicable provisions hereafter set forth), pennants, displays, symbols, advertising devices of any kind, and any other type of sign of any kind, including without limitation business, professional, promotional or institutional signs. No sign of any kind is permitted on any Lot, or upon any residence, or within any residence if visible from the exterior of the residence, or within the Subdivision except (i) as otherwise provided in **Section 2.15** regarding Protected Property Use Devices, or (ii) as otherwise approved in writing by the Owners in accordance with **Section 3.03**; provided that each Owner is permitted to place upon (and only upon) such Owner's Lot (y) one professionally prepared and printed sign not to exceed six square feet in size which advertises the particular Lot on which the sign is located for sale or for rent, but only during the periods of time when the Lot is in fact for sale or rent, and (z) security service signs not to exceed two in number, and to be located near the front and/or rear entrances of the residence, and not to exceed eighteen inches by twelve inches in size, as provided by a professional security service company. Any sign of any kind placed or displayed within the Subdivision in violation of this **Section 2.10** may be removed at any time by or at the direction of Declarant or the Owner Representative, and may be discarded as trash without liability for trespass, conversion or damages of any kind.

SECTION 2.11 Oil and Mining Operation. No gas or oil drilling, gas or oil development operations, oil refining, quarry or mining operations of any kind are permitted upon or within the Subdivision. No oil wells, tanks, tunnels, mineral excavations or shafts are permitted upon or within the Subdivision.

SECTION 2.12 Lot Fences, Walls and Hedges; Subdivision Fencing.

2.12.1 Definitions. As used in this Section (i) "Lot Fencing" means any and all fences and freestanding fence type walls, gateposts, hedges and planters, whenever and wherever located on any Lot, excluding any Subdivision Fencing which is included in the Subdivision Facilities, and (ii) "hedge" means a row of bushes, shrubs and similar plants which, at natural maturity, may exceed three feet (3') in height and have sufficiently dense foliage as to present a visual and physical barrier substantially similar to a fence.

2.12.2 Approval Required. Except as installed by or with the approval of Declarant, no Lot Fencing may be constructed, placed or maintained on any Lot without prior written approval of the Owners obtained in accordance with **Section 3.03**.

2.12.3 General Requirements. Except as hereafter provided regarding Perimeter Fencing, and except as installed by or with the approval of Declarant or unless otherwise approved in writing by the Owners obtained in accordance with **Section 3.03**, all Lot Fencing must comply with the following:

(a) No Lot Fencing may be more than six feet in height.

(b) All Lot Fencing (other than hedges) must be constructed of redwood or cedar vertical pickets with treated pine (or equivalent) post and supports, or ornamental wrought iron, brick or masonry, or combinations thereof, or composite materials which substantially simulate the appearance of the foregoing, as approved by the Owners obtained in accordance with **Section 3.03**.

(c) NO CHAIN LINK TYPE FENCING OF ANY TYPE IS PERMITTED ON ANY LOT.

2.12.4 Ownership and Maintenance. Ownership of all Lot Fencing passes with title to the Lot. All Lot Fencing must be continuously maintained in a structurally sound condition, in a neat and attractive condition, in good repair and otherwise as required to obtain and maintain prevailing community standards. The foregoing includes, without limitation, such maintenance, repair or replacement as is required to prevent listing or leaning, repair of all damaged or broken pickets and other members, and all holes and cracks, and repair or replacement as required to prevent rot or decay, and any other visible signs of dilapidation or deterioration. Lot Fencing which has been defaced with graffiti or other markings must be restored to its prior condition within 72 hours of such defacement or markings. PAINTING OR STAINING OF WOODEN FENCES IS PROHIBITED UNLESS APPROVED IN WRITING BY THE OWNERS IN ACCORDANCE WITH **SECTION 3.03**. All maintenance, repair or replacement of Lot Fencing which separates adjoining Lots, or which is otherwise shared in common by two or more adjoining Lots, is the joint responsibility of, and the costs thereof must be shared equally by, the adjoining Owners. Otherwise, all such maintenance, repair or replacement, and all cost thereof, are the sole responsibility of the Owner upon whose Lot the Lot Fencing is located. ONCE INSTALLED, THE LOCATION, STYLE, FINISH, APPEARANCE AND ALL OTHER FEATURES OF LOT FENCING MAY NOT BE MODIFIED OR CHANGED WITHOUT PRIOR WRITTEN APPROVAL OF THE OWNERS OBTAINED IN ACCORDANCE WITH **SECTION 3.03.**

2.12.5 Subdivision Fencing, Including Gates; Easements.

(a) "Subdivision Fencing" means (i) all fences and freestanding fence type walls located along the perimeter boundaries of the Subdivision, or which are otherwise designated as Subdivision Fencing by Declarant during the Development Period or by the Owners of not less than a majority of the Lots thereafter, (ii) all access limiting gates, including vehicle and pedestrian gates, and all associated controllers, operators and related devices and facilities ("access limiting devices"), and (iii) fences, walls, and/or entry and other identification monuments. All Subdivision Fencing is a part of the Subdivision Facilities and will be maintained as such. NO OWNER OR THEIR RELATED PARTIES, AND NO OTHER PERSON MAY MODIFY, ALTER OR IN ANY MANNER CHANGE OR ATTACH ANYTHING TO, ANY SUBDIVISION FENCING WITHOUT THE PRIOR WRITTEN CONSENT OF DECLARANT DURING THE DEVELOPMENT PERIOD OR THE APPROVAL OF THE OWNERS AS PROVIDED IN **SECTION 3.03** THEREAFTER.

(b) During the Development Period Declarant is specifically authorized to locate, establish, construct and maintain any and all Subdivision Fencing upon, over, access and under any part of the Subdivision, including any Lot, as Declarant deems appropriate. Declarant hereby reserves blanket easements upon, over, across, and under the Subdivision, including any Lot, for purposes of locating, establishing, constructing and maintaining any Subdivision Fencing. In addition to and without limitation of the blanket access easement as set forth in **Section 5.02**, a specific easement is hereby reserved upon, under and across each Lot for purposes of maintenance, repair, reconstruction and replacement of any Subdivision Fencing.

(c) THE EASEMENTS ESTABLISHED BY THIS SECTION INCLUDE WITHOUT LIMITATION EASEMENTS AS TO ALL AREAS OF ANY LOT, INCLUDING ANY PRIVATE DRIVEWAY THEREON, AND AS TO ALL AREAS OF ANY STREET WITHIN THE SUBDIVISION AFFECTED BY PLACEMENT OR OPERATION THEREIN OR THEREON OF ANY ACCESS LIMITING DEVICES, AND DECLARANT, THE ASSOCIATION, THE OWNER REPRESENTATIVE AND THEIR RELATED PARTIES HAVE NO LIABILITY WHATSOEVER BY

REASON OF ANY LOSS OF USAGE OR ANY OTHER CONSEQUENCES RESULTING FROM ANY SUCH EASEMENTS AS TO ANY LOT OR OTHER AREAS AFFECTED THEREBY. It is the responsibility of each Owner, such Owner's tenants and their Related Parties to keep all such areas open and unobstructed, and to otherwise prevent any interference with the proper functioning, operation maintenance, repair or replacement of any access limiting devices. Without limitation of the foregoing, parking (including temporary parking) as otherwise herein permitted is expressly prohibited within any area which would impede or impair operation of any access limiting devices.

SECTION 2.13 Garage Usage. No portion of any garage may be diverted to any use other than the parking of vehicles and other generally accepted and customary usage of a garage. In particular but not in limitation of the foregoing, no portion of any garage may be used as a residence or a game room, or for any similar use as living quarters.

SECTION 2.14 Window and Door Glass Covers. Glass in windows, doors and other similar openings must be maintained as installed during original construction except as otherwise approved by the Owners as provided in **Section 3.03.** Glass film and similar tinting, and aluminum foil and similar reflective materials, are in all events prohibited for use as a cover for any window or door; provided, factory tinted glass may be approved by Owners as provided in **Section 3.03**. Only blinds, curtains or drapes with backing material which is white, light beige, cream, light tan or light gray, and blinds or miniblinds of the same color, are permitted, unless otherwise approved by Owners as provided in **Section 3.03**. No other window treatment color may be visible from the exterior of any residence or other improvement. Temporary or disposable coverings, including sheets, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made or commonly used by the general public for permanent window coverings, are expressly prohibited.

SECTION 2.15 Protected Property Uses and Devices.

2.15.1 Applicability; Definition. This **Section 2.15** applies to any protected property uses established pursuant to Chapter 202 of the Texas Property Code, and to any structure, object, thing or device specifically pertaining to the protected property use (a "Protected Property Use Device").

2.15.2 Prior Approval Required. Except as otherwise expressly provided in this **Section 2.15** or in applicable Rules and Regulations, if any, prior written approval must be requested and obtained from the Owners in accordance with **Section 3.03** of this Declaration as to any Protected Property Use Device prior to construction, installation or maintenance of the same. Approval by the Owner Representative is not sufficient. Each approval request must also contain sufficient information and/or documentation as necessary to confirm compliance with applicable provisions of this **Section 2.15**, and with applicable Rules and Regulations, if any. Any prohibitions or restrictions applicable to the Association as provided in this **Section 2.15** apply in like manner to the Owners when acting pursuant to **Section 3.03**.

2.15.3 General Location Requirements. Subject to and without limitation of any other specific location requirements as otherwise stated in this **Section 2.15** or applicable Rules and Regulations, if any, no Protected Property Use Device may be located, placed or maintained at any location within the Subdivision (i) on any property which is owned by the Association, or owned in common by the members of the Association and the Association, or (ii) at any other location within the Subdivision except upon the Lot owned by the owner of the Protected Property Use Device.

2.15.4 Maintenance Requirement. Each Protected Property Use Device must be properly maintained in good condition and appearance at all times. Any deteriorated, damaged, or structurally unsound Protected Property Use Devise must be promptly repaired, replaced or removed.

2.15.5 Energy Efficient Roofing.

(a) This Section applies to "Energy Efficient Roofing" which means shingles that are designed primarily to (i) be wind and hail resistant, (ii) provide heating and cooling efficiencies greater than those provided by customary composite shingles, or (iii) provide solar generation capabilities.

(b) The Association may not prohibit or restrict an Owner who is otherwise authorized to install shingles on a roof on a structure that is located on the Owner's Lot from installing Energy Efficient Roofing provided that when installed the shingles:

(1) will otherwise comply with all applicable provisions of the Declaration, and with all applicable Rules and Regulations, if any;

(2) resemble the shingles used or otherwise authorized for use in accordance with subsection (1) above on property in the Subdivision;

(3) are more durable than and are of equal or superior quality to the shingles described by subsection (1) above; and

(4) match the aesthetics of the property surrounding the Owner's property.

2.15.6 Political Signs. Political signs advertising a political candidate or ballot item for an election (a "Political Sign") are permitted, subject to the following:

(a) No Political Sign is permitted earlier than the 90th day before the date of the election to which the sign relates, and each Political Sign must be removed in its entirety by the 10th day after the election date.

(b) No more than one Political Sign for each candidate or ballot item may be displayed per Lot.

(c) Each Political Sign must be ground-mounted.

(d) No Political Sign may (i) contain roofing material, siding, paving materials, flora, any balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; (ii) be attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; (iii) include the painting of architectural surfaces; (iv) threaten the public health or safety; (v) be larger than four feet by six feet; (vi) violate a law; (vii) contain language, graphics, or any display that would be offensive to the ordinary person; or (viii) be accompanied by music or other sounds or by streamers, or be otherwise distracting to motorists.

2.15.7 Permitted Flags.

(a) Subject to other applicable provisions of this Section, the Association may not prohibit or restrict an Owner from displaying upon the Owner's Lot (i) one American flag as permitted by the Freedom to Display the American Flag Act of 2005, and (ii) one flag of the State of Texas, and one flag each of any branch of the United States armed forces (official or replica) as permitted by Section 202.012 of the Texas Property Code (a "Permitted Flag"). Only Permitted Flags may be displayed. All other flags are deemed to be a "sign," and are thereby subject to all applicable provisions of this Declaration.

(b) Permitted Flags may only be displayed from a pole attached to the residence, including the appurtenant garage, as herein provided (a "Flagstaff"), or from a free-standing pole installed in the ground as herein provided (a "Flagpole"). All Permitted Flags must be displayed in a respectful manner in accordance with 4 U.S.C., Section 5-10, Texas Government Code, Section 3100, and applicable military codes, as applicable.

(c) In addition to other applicable provisions of this Section (i) the display of any Permitted Flag, and the location and construction of any Flagpole or Flagstaff must comply with all applicable zoning ordinances, and easements and setbacks of record, and (ii) no Flagstaff or Flagpole may be located or displayed on any property which is maintained by the Association, including without limitation on any part of a Lot as to which the Association provides lawn or landscape maintenance, or on any part of a residence, including appurtenant garage, which is maintained by the Association.

(d) Not more than one Flagpole or one Flagstaff, and not both, may be place or maintained on any Lot in accordance with the following:

(1) For purposes of this **Section 2.15.7**, "front yard" means a yard within a Lot having a front building setback line with a setback of not less than fifteen feet (15') extending the full width of the Lot between the front Lot line and the front building setback line.

(2) If the applicable Lot has a "front yard," then, either one Flagpole may be installed in the "front yard," or one Flagstaff may be attached to the residence, including an appurtenant garage, located on the applicable Lot.

(3) If the applicable Lot does not have a "front yard," then one Flagstaff may be attached to the residence, including an appurtenant garage, located on the applicable Lot. No Flagpole is permitted on any Lot which does not have a "front yard."

(e) Applicable easements, setbacks and Lot lines must be determined in accordance with the Plat, this Declaration and all other matters of record as reflected by the Official Public Records of Real Property of Harris County, Texas. For example, a Lot lien si not necessarily the same as the abutting street curb, and a building setback is not necessarily the same as the location of the front of a residence.

(f) A Flagpole (i) may not exceed twenty feet (20') in height, (ii) may not exceed eight inches (8") in diameter unless approved by the ACC in accordance with the manufacturer's recommendations, and (iii) must be permanently installed in the ground in accordance with the manufacturer's instructions.

(g) A Flagstaff (i) may not be more than four feet (4') in length, (ii) may not exceed four inches (4") in diameter unless approved by the ACC in accordance with the manufacturer's recommendations, (iii) may not be attached such that any part of the Flagstaff exceeds in height the lesser of (x) twenty feet (20') in height above ground level, (y) the height of the lower border of the roof on the applicable residence or garage (the eaves), or (z) such lower height as determined by the ACC to be reasonably necessary to obtain aesthetic compatibility and harmony of external design, location and appearance as provided in this Declaration or other applicable Governing Documents, and (iv) must be securely attached by a bracket at an angle of 30 to 45 degrees down from vertical and in accordance with the manufacturer's instructions.

(h) Permitted Flags are limited in size to a maximum of three feet (3') tall and five feet (5') wide.

(i) Not more than one Permitted Flag may be displayed on a Flagstaff. Not more than one Permitted Flag may be displayed on a Flagpole which is less than twelve feet (12') in height. Not more than two Permitted Flags may be displayed on a Flagpole that is twelve feet (12') to twenty feet (20') in height.

(j) A Permitted Flag may be illuminated if it will be displayed at night, and if existing ambient lighting does not provide essentially equivalent lighting as next provided. Any such illumination (i) must be ground mounted in close proximity to the Permitted Flag, (ii) must be pointed towards the center of the flag, and must face and be pointed towards the main residence located on the applicable Lot, (iii) must utilize a fixture that screens the bulb and directs light in the intended direction with minimal spillover, and (iv) may not provide illumination exceeding the equivalent of a 60 watt incandescent bulb.

(k) In addition to the general maintenance requirements set forth in **Section 2.15.4**, Flagstaffs and Flagpoles must be (i) commercially made for flag display purposes, (ii) constructed of permanent, long-lasting materials with a finish appropriate to the materials use in the construction of the Flagstaff or Flagpole, and (iii) harmonious with the main residence located on the applicable Lot.

2.15.8 Rainwater Harvesting Systems.

(a) Subject to other applicable provisions of the Section, the Association may not prohibit or restrict installation or maintain by an Owner on the Owner's Lot of a rain barrel or other rainwater harvesting system (a "Rainwater Harvesting System").

(b) In addition to the general location requirements set forth in **Section 2.15.3** hereof, the Rainwater Harvesting System may not be located between the front of the main residence located on the applicable Lot and any adjoining or adjacent street (including any Shared Drive as defined in **Section 2.05**).

(c) The Rainwater Harvesting System must be of a color which is consistent with the color scheme of the main residence on the applicable Lot, and may not display any language or other content that is not typically displayed on the Rainwater Harvesting System as it is manufactured.

(d) This subsection applies if and as to each Rainwater Harvesting System which will be installed on or within the side yard area of a Lot, or which would otherwise be visible from any street (including any Shared Drive as defined in **Section 2.05**), or from any Subdivision Facilities, or from another Lot. In each such case the proposed Rainwater Harvesting System is subject to regulation as to the size, type, shielding and materials used in the construction of the system as part of the approval process as provided in **Section 2.15.2**, provided that the economic installation of the system may not be prohibited thereby. The Owner seeking approval of any Rainwater Harvesting System subject to the foregoing must submit with the Owner's approval request a description of methods proposed to shield and otherwise minimize the visibility and visual impact of the system.

(e) Harvested water must be used, and may not be allowed to become stagnant or otherwise cause or create any threat to health or safety. Any unused Rainwater Harvesting System must be removed if any part thereof is visible from any street or Shared Drive, Subdivision Facilities or another Lot, or if the unused system may or does cause or create any threat to health or safety.

2.15.9 Solar Energy Devices.

(a) In this Section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling, or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. The term also includes all components of the solar energy device as applicable, including any related mast, frame, brackets, support structures, piping and wiring.

(b) No solar energy device may be installed or maintained upon any residence or Lot or at any other location in the Subdivision during the Development Period without the prior written consent of Declarant. No solar energy device may be installed or maintained upon any residence or Lot, or at any other location within the Subdivision, either during or after the Development Period except in accordance with this Section.

(c) All solar energy devices must be installed and thereafter maintained in compliance with the manufacturer's instructions and requirements, and must be installed and thereafter maintained in a manner which does not void any material warranties.

(d) All solar energy devices must be installed and thereafter maintained in such manner as not to cause or create (i) any threat to public health or safety, (ii) any violation of any law, or (iii) any substantial interference with the use and enjoyment of land by causing unreasonable discomfort or annoyance to any adjoining property owner of ordinary sensibilities.

(e) In addition to the general location requirements as set froth in **Section 2.15.3** hereof, a solar energy device must comply with the following:

(1) No solar energy device may be located on any property which is maintained by the Association, including any part of a Lot as to which the Association provides lawn or landscape maintenance.

(2) No solar energy device may be located on a Lot at any location other than (i) entirely on the roof of the main residence located on the applicable Lot, (ii) entirely within a fenced yard area of the applicable Lot, or (iii) entirely within a fenced patio located in the back yard of the applicable Lot.

(f) A solar energy device which is mounted on the roof of the main residence of the applicable Lot must comply with the following:

(1) No portion of the solar energy device may extend higher than or beyond the roof line, or extend beyond the perimeter boundary or boundaries of the roof section to which it is attached.

(2) The solar energy device must conform to the slope of the roof to which attached, and must have a top edge that is aligned parallel to the roof ridge line for the roof section to which attached.

(3) The solar energy device must have a frame, brackets, and visible piping or wiring that is a color that matches the roof shingles, or a silver, bronze or black tone commonly available in the marketplace.

(4) The solar energy device may not have any advertising slogan, logo, print or illustration upon the solar energy device other than the standard logo, printing or illustration which may be included by the applicable manufacturer of the solar energy device.

(5) The solar energy device must be located on the roof so as not to be visible from any street (including any Shared Drive as defined in **Section 1.02.15**). Notwithstanding the foregoing, approval of an alternative roof location may be requested upon submission of proof that (i) the alternate location will increases the estimated annual energy production of the device, as determined by using a publically available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the device if located in an area which is not visible from any street (including any Shared Drive) as aforesaid, and (ii) the alternative roof location provides the least visibility from any street (including any Shared Drive) from which an increase in the estimated annual energy production can be obtained.

(g) A solar energy devise which is installed within a fenced yard or patio area must comply with the following:

(1) No portion of the solar energy device may extend above any part of the fencing which encloses the device.

(2) If the fence which encloses the solar energy device is not solid or does not otherwise block the view of the device from the outside of the fence, the approval by Owners as provided in **Section 2.15.2** may require the device be located behind a structure or otherwise require visual screening.

(3) The Owners may consider approval of a solar energy device on a Lot without a fenced yard or patio if adequate screening is provided to block or minimize visibility of the device from any street (including any Shared Drive) as determined by the Owners as provided in **Section 2.15.2**.

2.15.10 Display of Certain Religious Items.

(a) Subject to other applicable provisions of this Section, the Association may not prohibit or restrict an Owner or resident from displaying or affixing one or more religious items on the entry to their residence. Such items include any thing related to any faith that is motivated by the Owner's or resident's sincere religious belief.

(b) Individually or in combination with each other, the items at any entry may not exceed 25 square inches total in size.

(c) The items may only be displayed on or attached to the entry door or door frame, and may not extend beyond the outside edge of the door frame.

(d) To the extent allowed by the Texas state constitution and the United States constitution, any such displayed or affixed religious items may not (i) threaten public health or safety, or (ii) violate any law; or (iii) contain language, graphics or any display that is patently offensive to a passerby.

(e) Approval by Owners is not required for displaying or affixing religious items so long as displayed or affixed strictly in compliance with this Section. This Section does not otherwise

authorize use of any materials or colors for an entry door or door frame or any alterations to the entry door or door frame unless approved in writing by the Owners in accordance with **Section 3.03**.

(f) The Association may remove any religious items displayed in violation of this Section as provided in Section 202.018 of the Texas Property Code.

2.15.11 Adjacent Lot Use.

(a) As provided in Texas Property Code, Section 209.015, in this Section "Adjacent Lot" means (i) a Lot that is contiguous to another Lot that fronts on the same street (including any Shared Drive as defined in **Section 1.02.15**), or (ii) with respect to a corner Lot, a Lot that is contiguous to the corner Lot by either a side property line or a back property line. Adjacent Lot does not include, and this Section does not permit or apply to, any Lot that is contiguous to another Lot at the back property line.

(b) In accordance with **Section 2.06** of this Declaration, each and every Lot within the Subdivision must have a single family residence constructed thereon. It is accordingly the intent hereof that no Adjacent Lots will be located within the Subdivision. To the extent any Adjacent Lot is required to be permitted within the Subdivision by law, the following provisions apply to each such Adjacent Lot:

(1) In this Section use of any Adjacent Lot for "residential purpose" as defined in Texas Property Code, Section 209.015 does not include, and this **Section 2.15.11** does not permit or apply to, use of an Adjacent Lot for parking or storage of any recreational vehicle unless otherwise approved in writing by the ACC as provided in **Section 2.15.2**.

(2) Through use of landscaping, fencing (including hedges as defined in **Section 2.12**) or otherwise, the overall appearance of the Adjacent Lot and the Lot to which the Adjacent Lot is adjoined must be integrated such that the Adjacent Lot and the adjoined Lot appear so far as practicable to be one Lot.

(3) THE OWNER OF EACH ADJACENT LOT MUST PAY ALL REGULAR, SPECIAL AND SPECIFIC ASSESSMENTS AS TO THE ADJACENT LOT AT THE SAME RATES AND IN THE SAME MANNER AS OTHERWISE APPLICABLE TO THE ADJOINED LOT.

(4) NOTHING IN THIS SECTION, OR IN THIS DECLARATION OR IN ANY OTHER GOVERNING DOCUMENTS, REQUIRES DECLARANT, AN AUTHORIZED BUILDER OR ANY OTHER OWNER OR PERSON TO SELL ANY LOT TO ANY PERSON FOR USE AS AN ADJACENT LOT.

2.15.12 Compost Sites.

(a) Subject to applicable provisions of this Section, the Association may not prohibit or restrict an Owner from (i) implementing measures to promote solid-waste composting at a location on the Owner's Lot (a "Compost Site") of vegetation, including grass clippings, leaves or brush, or (ii) leaving grass clippings uncollected on grass.

(b) No more than one Compost Site is permitted on each Lot. The Compost Site on each Lot must be located in an area of the yard which is (i) behind the front building setback and completely enclosed by fencing, or (ii) contained completely within a fenced back yard patio area.

(c) Each Compost Site must be approved by the Owners as provided in **Section 2.15.2**, including as to size, type, shielding and materials.

(d) Notwithstanding subsection (a)(ii), grass clippings may not be allowed to accumulate to the extent or in such manner as to cause or create a fire or health hazard, or an unsightly or unkempt condition to a person of ordinary sensibilities.

2.15.13 Xeriscaping.

(a) Subject to applicable provisions of this Section, the Association may not prohibit or restrict an Owner from (i) implementing an efficient irrigation system, including underground drip or other drip system, or (ii) using drought-resistant landscaping or water-conserving natural turf.

(b) Use of gravel, rocks, cacti or similar ground cover is permitted only to the extent expressly approved by the Owners as provided in **Section 2.15.2**. The Owners may not approve use of gravel, rocks, cacti or similar ground cover, or any combination thereof, as to any area which is visible from any street or Shared Drive (as defined in **Section 1.02.15**) if the ground cover would exceed in the aggregate more than one-third of the area.

(c) Use of artificial turf of any kind is prohibited. Use of artificial plants or other artificial vegetation or landscaping of any kind is also discouraged, and is not permitted unless expressly approved by Owners as provided in **Section 2.15.2**.

(d) All above-ground components and devices as to each irrigation system must be installed or shielded as approved by the Owners as provided in **Section 2.15.2** so as not to be visible from any street (including any Shared Drive as defined in **Section 1.02.15**), and are also subject to reasonable requirements of the Owners regarding installation and visibility limitations for aesthetic purposes which do not restrict water conservation.

(e) Detailed plans and specifications must be submitted to and approved by the Owners as provided in **Section 2.15.2** for installation of drought-resistant landscaping or water-conserving natural turf to ensure to the extent reasonably practicable maximum aesthetic compatibility with other landscaping in the Subdivision, and compliance with other applicable provisions of this Declaration and other Rules and Regulations, if any. The Owners may not unreasonably deny or withhold approval of drought-resistant landscaping or water-conserving natural turf, or unreasonably determine a proposed installation is aesthetically incompatible with other landscaping in the Subdivision.

(f) Without limitation of **Section 2.20** hereof regarding Rules and Regulations, Declarant during the Development Period, and the Owners thereafter, are hereby specifically authorized to adopt specific Rules and Regulations, including architectural guidelines, restricting the type of the turf to be installed during initial construction of a residence on a Lot, and/or in the planting of new turf to encourage or require water conserving turf.

2.15.14 Architectural Guidelines. Declarant during the Development Period, and the Owners thereafter, are hereby specifically authorized to adopt and amend Rules and Regulations, including architectural guidelines, regarding any Protected Property Use Device in accordance with this **Section 2.15** and this Declaration, and with Chapter 202 of the Texas Property Code.

SECTION 2.16 Leases.

2.16.1 Restrictions. No Lot may be leased other than for use as a single family residence as herein provided and defined. No Owner may lease a Lot and attendant use of the residence and improvements thereon for transient or hotel purposes. No lease may be for an initial term of less than six months. No Owner may lease less than an entire Lot and attendant use of the residence and improvements thereon. All leases: **(i)** must be in writing; and **(ii)** are specifically subject in all respects to all provisions of this Declaration and all other governing documents (whether or not expressly stated in the lease), and any failure by lessee to comply with this Declaration or any other governing documents is a default under the lease.

2.16.2 Default. In the event of default under any lease due to violation of this Declaration or any other governing documents, the Owner Representative may (but has no obligation to) initiate any proceedings, actions or litigation under the lease to enforce compliance or to terminate the lease and/or for eviction. With regard to the foregoing, each Owner hereby irrevocably appoints the Owner Representative or its designated representative as their attorney-in-fact, agrees to indemnification in regard thereto to the fullest extent herein provided (including as set forth in **Section 3.04**) and agrees to be solely responsible for all costs thereof (including as provided in **Section 3.02.9**). NO PROCEEDINGS, ACTION OR LITIGATION UNDER THIS SECTION OR ANY OTHER PROVISIONS OF THIS DECLARATION OR ANY OTHER GOVERNING DOCUMENTS CONSTITUTE AN ASSUMPTION BY THE ASSOCIATION OR ITS RELATED PARTIES OF ANY OBLIGATION WHATSOEVER UNDER ANY LEASE OR REGARDING ANY LEASEHOLD INTEREST, INCLUDING WITHOUT LIMITATION, ANY OBLIGATION REGARDING SECURITY DEPOSITS, MAINTENANCE AND ANY OTHER OBLIGATIONS PURSUANT TO TITLE 8 OF THE TEXAS PROPERTY CODE, ALL SUCH OBLIGATIONS BEING HEREBY EXPRESSLY DISCLAIMED.

2.16.3 Joint and Several Liabilities. Lessor(s) and lessee(s) are jointly and severally liable for the observance and performance of all of the terms and provisions of this Declaration and all other governing documents, including without limitation joint and several liabilities for all damages, costs and expenses resulting from any violations by either, or by their respective Related Parties, for all fines and assessments imposed hereby and with respect to all other rights and remedies regarding enforcement of this Declaration and all other governing documents.

SECTION 2.17 Septic Tanks; Irrigation. No septic tank, private water well or similar private sewage or water system is permitted upon any Lot. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, canals or other ground or surface waters may be installed, constructed or operated upon any Lot or elsewhere in the Subdivision. Private irrigation wells are prohibited upon any Lot. Sprinkler and irrigation systems installed as Subdivision Facilities will be maintained by the Association. No other sprinkler or irrigation system may be installed upon any Lot or elsewhere in the Subdivision except with the prior written consent and approval of the Declarant or as otherwise approved by the Owners as provided in **Section 3.03.**. The foregoing does not preclude use of a "Rainwater Harvesting System" as provided in **Section 2.15.8**, subject to strict compliance with all provisions of that Section.

SECTION 2.18 Artificial Vegetation, Exterior Sculpture, and Similar Items. Artificial vegetation, exterior sculpture, fountains, flags (excepting as provided in **Section 2.15**), birdhouses, birdbaths and other decorative embellishments or similar items are prohibited at any location upon a Lot which is visible from any street or at ground level from another Lot except with the prior written approval of the Owners obtained as provided in **Section 3.03.**

SECTION 2.19 Firearms and Fireworks Prohibited. The use of firearms in the Subdivision is strictly prohibited except as otherwise permitted by law. The term "firearms" includes without limitation "B-B" guns, pellet guns, and small or large firearms of all types. The storage, sale or discharge of fireworks or any other explosive devices of any type are strictly prohibited upon any Lot or at any other location within the Subdivision.

SECTION 2.20 Rules and Regulations. Declarant during the Development Period and the Owners thereafter, with the approval of the Owners of not less than fifty-one percent (51%) of all Lots then contained in the Subdivision, may from time to time adopt, amend, modify and delete reasonable Rules and Regulations, provided that (i) Rules and Regulations may not be enacted retroactively (except that if any activity is subsequently covered by Rules and Regulations and such activity ceases after enactment of the Rules and Regulations covering same, then the Rules and Regulations will apply to the activity thereafter), (ii) Rules and Regulations may not be incompatible with the provisions of this Declaration; and (iii) Rules and Regulations will not become effective until filed of record or such later date as stated therein, and notice thereof is given to all Owners (certification by the Owner Representative that proper notice was given in accordance with this Section to be conclusive absent proof of fraud).

Article III
Association; Assessments; Architectural Control

SECTION 3.01 Establishment of Association.

3.01.1 Organization; Purposes. The Association is established as a Texas unincorporated nonprofit association pursuant to Chapter 252 of the Texas Business Organizations Code. The principal purposes of the Association are the collection, expenditure and management of the funds and financial affairs of the Association, enforcement of all provisions of the governing documents, providing for maintenance, preservation and architectural control within the Subdivision, providing for maintenance, repair and replacement of such Subdivision Facilities as herein permitted or required, and performance of all other acts and undertakings reasonably incident to any of the foregoing or in furtherance thereof.

3.01.2 Powers. The Association has full right, power and authority to and enforce all provisions of this Declaration and all other governing documents, including without limitation **(i)** to exercise all powers available to a Texas unincorporated nonprofit association, and, to the fullest extent allowed by law, to exercise all powers of a Texas nonprofit corporation, **(ii)** to exercise all powers of a property owners association pursuant to Section 204.010 of the Texas Property Code, and **(iii)** to exercise all implied powers incident to the foregoing or necessary or proper to the Association's express powers or purposes, subject however to any limitations expressly stated herein or in other governing documents. Without limitation of the foregoing, the Association is hereby expressly authorized (x) to acquire (by gift, deed, lease or otherwise), own, hold, improve, operate, maintain, sell, lease, convey, dedicate for public use, acquire, hold, use, and otherwise dispose of and/or alienate real and personal property as the Owners may deem necessary or appropriate and/or as provided in this Declaration and other governing documents, (y) subject to prior approval by the Owners of not less than a majority of the Lots then contained in the Subdivision, to borrow money, and to mortgage, pledge, deed in trust or otherwise encumber, alienate or hypothecate any or all of the Association's real or personal property as security for money borrowed or debts incurred to conduct the lawful affairs of the Association, and (z) to compromise and settle any and all claims, demands, liabilities and causes of action whatsoever held by or asserted against the Association upon such term and conditions as the Owner Representative may determine.

3.01.3 Owner Representative, Including Meetings.

(a) General Authority and Duties. The Owner Representative will manage, administer and direct the business and affairs of the Association as provided in this Declaration, and in accordance with the decisions and directives of the Owners at any Meeting of Owners, including in particular but without limitation, making all collections, deposits and disbursements regarding the Maintenance Fund, keeping proper books of account and other books and records of the fiscal and financial affairs of the Association, and making same available for inspection and copying by any Owner as herein provided, maintaining minutes of all Meetings of Owners, maintaining of such enforcement actions as deemed necessary to obtain and maintain compliance with the provisions of this Declaration, including payment of costs, expenses and attorneys fees incurred with regard thereto, and exercising such other authority and discharging such other duties as from time to time established by Owners at any applicable Meeting of Owners.

(b) Election; Removal. DECLARANT OR ITS DESIGNEE WILL ACT AS THE OWNER REPRESENTATIVE UNTIL THE EARLIER TO OCCUR OF ELECTION OF AN OWNER REPRESENTATIVE BY THE OWNERS AS NEXT PROVIDED OR TERMINATION OF THE DEVELOPMENT PERIOD. Owners will elect the first Owner Representative at the First Election Meeting of Owners as provided in **Section A5.01** of Exhibit "A" hereto. Each Owner Representative elected by Owners will serve a term of two years or until their successor is elected and has qualified. Any Owner Representative who is elected by the Owners may be removed at any Meeting of Owners upon the vote of the Owners of a majority of the Lots then contained in the Subdivision, and in such case and at the same Meeting of Owners the Owners will also elect a new Owner Representative to serve for the remaining term of the removed Owner Representative.

(c) Owners Acting as Owner Representative. If at any time after the Development Period the Owners fail to elect an Owner Representative, or in the event of any other vacancy (including as caused by the disability or resignation of an Owner Representative), all rights, duties and responsibilities of the Owner Representative will vest in the Owners until an Owner Representative is elected and qualified at a Meeting of Owners.

(d) Owner Representative Meetings. An "Owner Representative Meeting" means any meeting between the Owner Representative and the Owners other than a Meeting of Owners. An Owner Representative meeting must be held as provided in subsection (e) below, and must also be held upon written request stating a proper purpose for the meeting which is dated and signed by the Owners of not less than forty percent (40%) of all Lots then contained within the Subdivision. An Owner Representative Meeting may also be held at any other time when called by the Owner Representative. Any Owner Representative Meeting may be held at a physical location, by Electronic Means as provided in **Section 3.01.7**, or any combination thereof. All Owner Representative Meetings are open to all Owners except for closed executive sessions as permitted by Texas Property Code, Section 209.0051(c).

(e) Notice to Owners. The Owner Representative may not without prior notice to Owners take formal action regarding (i) fines, (ii) damage assessments, (iii) initiation of foreclosure actions, excluding temporary restraining orders or violations involving a threat to health or safety, or (iv) a suspension of a right of a particular Owner before the Owner has an opportunity to attend an Owner Representative Meeting to present the Owner's position, including any defense, on the issue. When notice to Owners is required as aforesaid, the Owner Representative must hold an Owner Representative Meeting as provided in subsection (d) above, and notice of the meeting, including the purpose or purposes thereof, must be given in at least one of the following manners:

1. by mailing to each Owner not later than the tenth day or earlier than the sixtieth day before the date of the meeting, or

2. provided at least seventy-two hours before the start of the meeting by (i) posting the notice in a conspicuous manner reasonably designed to provide notice to Owners in a place located on the Association's common area property, or on any Internet website maintained by the Association, and ()ii) sending the notice by email to each Owner who has registered an email address with the Association.

(f) Records. A record of each Owner Representative Meeting must be kept by, or at the direction of, the Owner Representative. The Owner Representative will also summarize at each Owner Representative Meeting any formal actions taken since the last Owner Representative Meeting or annual Meeting of Owners, as applicable, including an explanation of actual or estimated expenditures approved by the Owner Representative, and document the same in the record of the Owner Representative Meeting. The Owner Representative must make Meeting records available to an Owner for inspection and copying on the Owners' written request to the Owner Representative or to the Association's Managing Agent, if any, at the address appearing on the Association's most recently filed management certificate.

(g) EMAIL REGISTRATION REQUIRED. IT IS THE DUTY OF EACH OWNER TO KEEP AN UNDATED EMAIL ADDRESS REGISTERED WITH THE ASSOCIATION, INCLUDING AS PROVIDED IN **SECTION 6.04** HEREOF. REGISTRATION AS AFORESAID IS REQUIRED FOR THE PURPOSE OF RECEIVING NOTICE OF OWNER REPRESENTATIVE MEETINGS. THE OWNER REPRESENTATIVE MAY ESTABLISH OTHER PROCEDURES FOR REGISTRATION OF EMAIL ADDRESSES, WHICH PROCEDURES MAY BE REQUIRED FOR THE PURPOSE OF RECEIVING NOTICE OF OWNER REPRESENTATIVE MEETINGS.

3.01.4 Membership. Every Person who is an Owner must be and is a "Member" of the Association, and as such is subject to and has such rights, responsibilities and obligations as set forth in this Declaration and other applicable governing documents. The Association is entitled to rely on the Official Public Records of Real Property of Harris County, Texas in determining such status as an Owner, and may require submission to the Owner Representative of appropriate certified copies of such records as a condition precedent to recognition of status as an Owner. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest will not terminate any Owner's membership. No Owner, whether one or more Persons, will have more than one membership per Lot. Memberships is appurtenant to and may not be separated from ownership of each Lot, and will automatically pass with the title to the Lot.

3.01.5 Voting Rights of Owners.

(a) Calculation of Votes. The number of votes which may be cast regarding any matter properly presented for a vote of the Owners (Members) of the Association will be calculated as follows:

(1) The Owner of each Lot, including Declarant, will have one vote for each Lot owned.

(2) In addition to the vote or votes to which Declarant is entitled by reason of Declarant's ownership of one or more Lots as above provided, for every one vote outstanding in favor of any Owner other than Declarant, Declarant will have four additional votes per Lot owned by each Owner other than Declarant until the expiration or termination of the Development Period.

(b) Multiple Owners. When more than one Person holds an ownership interest in a Lot, all such Persons are Members, but in no event will they be entitled to more than one vote with respect to each particular Lot owned. The single vote, approval, or consent of such joint Owners must be cast or given in accordance with the decision of a majority, or if such joint Owners cannot reach a majority decision, then none of the joint Owners will be permitted to vote, approve, or consent as to any such matter upon which a majority decision cannot be reached. The vote, approval or consent of any single Owner from among such joint Owners is conclusively presumed to be cast or given in accordance with the decision of the majority of the joint Owners and with their full authority.

(c) Cumulative Voting Prohibited. Cumulative voting is prohibited as to any matter placed before the membership for a vote.

(d) Right to Vote. No Owner may be disqualified from voting in an election or on any matter concerning the rights or responsibilities of the Owner.

3.01.6 Meetings of Owners.

(a) Annual Meetings. A Meeting of Owners will be held annually, commencing within one year after completion of the initial sale of the first Lot in the Subdivision to an Owner other than Declarant or a builder. During the Development Period the annual Meeting of Owners will be primarily informational. Beginning with the First Election Meeting of Owners as provided in **Section A5.01** of Exhibit "A" hereto, and at each annual Meeting of Owners thereafter, the Owners will (i) when applicable, elect an Owner Representative as provided in **Section 3.01.3**, (ii) adopt a budget to determine estimated sums necessary and adequate to provide for the expenses of the Association and the Owner Representative for at least the succeeding calendar year, including for funding of capital, contingency and other reserves, (iii) set the amount or amounts of all regular assessments for the succeeding calendar year based on the budget, and determine if the same will be payable annually, semi-annually, quarterly or monthly, and (iv) conduct such other business as determined by the Owners. At each annual Meeting of Owners following the First Election Meeting of Owners, the Owner Representative will also provide an oral summary of any formal actions taken by the Owner Representative which must also be documented in the record of the meeting as provided in **Section 3.01.3**.

(b) Special Meetings. Special Meetings of Owners may be called by the Owner Representative, and must be called by the Owner Representative upon receipt of a proper written request from the Owners of not less than forty percent (40%) of all Lots then contained in the Subdivision. A proper written request must state a proper purpose or purposes for the special Meeting of Owners, and must be dated and signed by the Owners requesting the same. Any request for a special Meeting of Owners which does not comply with any of the foregoing is not valid for any purpose.

(c) Notices. Except as provided in **Section A5.01** of Exhibit "A" hereto regarding the First Election Meeting of Owners, all Meetings of Owners will be held on such date, at such time and at such place in Harris County, Texas as determined by the Owner Representative. Written notice or notice by Electronic Means (as defined in **Section 1.02.5** and as provided in **Section 6.04**) of each Meeting of Owners must be given by or at the direction of the Owner Representative to the Owners of all Lots not later than the tenth day or earlier than the sixtieth day before the date of the meeting. The notice must state the date and time of the Meeting of Owners, and must either state the place of the meeting or the means of participation in the case of a meeting held by Electronic Means. The notice of a special Meeting of Owners must also state the purpose(s) of the meeting. For each annual meeting following the First Election Meeting of Owners, the Owner Representative must also enclose with the notice a proposed budget and regular assessment amount or amounts, as applicable. Notice of any meeting is waived by any Owner who attends

or participates in the meeting in person or by proxy unless the Owner attends or participates solely for purposes of objecting to the meeting as not properly called or convened.

(d) Meeting Officers; Minutes; Costs. Except as provided in **Section A5.01** of Exhibit "A" hereto regarding the First Election Meeting of Owners, the Owner Representative will act as the chairperson for each Meeting of Owners; or, in the absence of, or failure or refusal to act by, the Owner Representative, then the Owners present at the meeting will elect a chairperson as the first order of business. The chairperson may also act as secretary for the meeting, or the chairperson may appoint any other Member or the Association's Managing Agent to act as the secretary for the meeting. The secretary will prepare minutes of the meeting and sign the same. All minutes will be maintained as part of the permanent records of the Association. All costs of preparation and mailing of any notices, copies of minutes and all other proper costs to call or conduct any Meeting of Owners will be paid from the Maintenance Fund.

(e) Voting; Quorum. Each Owner may vote at any Meeting of Owners in person or by proxy. Each Owner may also vote at any Meeting of Owners in any manner permitted by Section 209.00592 of the Texas Property Code, but only if permitted by and in such case only pursuant to such procedures as may from time to time be adopted by the Owner Representative or pursuant to applicable Rules and Regulations. The presence at any Meeting of Owners of the Owners of not less than forty percent (40%) of the Lots then contained within the Subdivision, in person or by proxy, and whether or not in good standing, constitutes a quorum. The Owners present at a meeting, in person or by proxy, may continue to transact business until adjournment notwithstanding the withdrawal of enough Owners to leave less than a quorum. When a quorum is present at any Meeting of Owners, the vote of a majority of the votes entitled to be cast at the Meeting of Owners on any issue, questions, election or other matter which is properly before the Meeting of Owners will be sufficient to decide the issue, questions, election or other matter unless a different vote is expressly required by this Declaration or by law, in which case the express provisions will control. Any such act of a Meeting of Owners is binding upon all Members and Owners.

(f) Vote Tabulators; Tabulation and Access to Proxies or Ballots.

(1) Voice or show voting results will be verified and tabulated by the Chairperson of the meeting to which the same pertains. Proxy and ballot voting results will be verified and tabulated by the "Vote Tabulators." A person who is a candidate in an Association election or who is otherwise the subject of an Association vote, or a person related to that person within the third degrees by consanguinity or affinity, as determined under Chapter 573, of the Texas Government Code, may not act as a Vote Tabulator.

(2) Two Vote Tabulators must be appointed for each Meeting of Owners regarding an Association election or vote. The Vote Tabulators so appointed will serve only as to the meeting for which appointed, including any continuation thereof, and all authority of the Vote Tabulators as provided herein extends only to that meeting, or any continuation thereof.

(3) Prior to or at the beginning of each Meeting of Owners regarding an Association election or vote, one qualified Vote Tabulator must be appointed by the Owner Representative. If the Association has a Managing Agent, then the Managing Agent, if qualified, will act as the second Vote Tabulator. Otherwise, prior to conducting of any other business except as to appointment or election of a chairperson or secretary, as applicable, a second qualified Vote Tabulator must be appointed by the Owners who are present at the meeting by majority vote. The chairperson of the meeting, any Owner or an independent third party, if qualified, may act as a Vote Tabulator. The Association's attorney may also act as an ex-officio Vote Tabulator. "Qualified" means the person is not disqualified under subsection (1) above. In the case of multiple Owners of a Lot, if any single Owner is disqualified, then all persons who are an

Owners as to that Lot are disqualified. THE NAMES OF THE VOTE TABULATORS FOR EACH MEETING MUST BE STATED IN THE MINUTES OF THE MEETING. VOTE TABULATORS MAY INSPECT BALLOTS AND PROXIES ONLY AS PROVIDED IN, AND MUST MAINTAIN THE CONFIDENTIALITY OF ALL BALLOTS AND PROXIES AS PROVIDED IN, SUBSECTION (g) BELOW.

(4) Satisfactory proof of membership to entitle any Member to vote or any other qualifications necessary to the validity of a ballot or proxy may be required if in the sole good faith opinion of the Vote Tabulator reasonable doubt as to the same exists.

(g) Proxies and Ballots Confidential.

(1) NO BALLOT OR PROXY MAY BE INSPECTED BY ANY PERSON OTHER THAN THE VOTE TABULATORS (INCLUDING EX-OFFICIO VOTE TABULATORS) FOR THE MEETING TO WHICH THE VOTE PERTAINS. THE VOTE TABULATORS (INCLUDING EX-OFFICIO VOTE TABULATORS) WILL INSPECT BALLOTS AND PROXIES SOLELY FOR THE PURPOSES OF VALIDATING THE SAME AND TABULATING THE RESULTS OF ANY VOTE OF THE MEMBERSHIP. THE CONTENTS OF ALL BALLOTS AND PROXIES MUST BE HELD IN CONFIDENCE BY ALL VOTE TABULATORS, AND NO PERSON OTHER THAN A VOTE TABULATOR MAY BE GIVEN ACCESS TO ANY BALLOT OR PROXY EXCEPT AS PART OF A RECOUNT PROCESS AS PROVIDED IN SUBSECTION (h) BELOW.

(2) Subsection (1) above does not preclude administrative processing of ballots or proxies by Association management personnel or other administrative agents or employees of the Association, provided that such personnel, agents or employees must implement reasonable procedures to maintain the confidentiality of the ballots or proxies.

(h) Recount of Votes. A recount of votes as to election of an Owner Representative or any other action by vote of the Owners may be requested only as provided in Section 209.0057 of the Texas Property Code, and must be conducted as therein provided.

(i) Notice of Election of Owner Representative. Within a reasonable time after each Meeting of Owners at which an Owner Representative is elected by the Owners, written notice must be given to the Owners of all Lots stating the name, the mailing address and the email address of the elected Owner Representative.

3.01.7 Alternative Forms of Meetings or Action, Including by Electronic Means. Any Meeting of Owners (or Owner Representative Meeting as provided in **Section 3.01.3**) may also be held by, and any notices regarding the same may be given by "Electronic Means" (as defined in **Section 1.02.5**), or as otherwise provided by Section 6.002 of the Texas Business Organizations Code. When any meeting is held by Electronic Means (i) the notice of the meeting must specifically identify the form of communications system to be used and the means of accessing the communications system, and (ii) reasonable procedures must be implemented to maintain confidentiality as required by this Declaration or other governing document, including as to confidentiality regarding voting by any Owner. Participation in any meeting by Electronic Means constitutes presence at the meeting for all purposes. The Owners may also act by written consent as permitted by Sections 6.201-6.205 of the Texas Business Organizations Code. Any reference herein to a Meeting of Owners includes any alternative form of action as aforesaid.

3.01.8 Rules; Amendment. The Owner Representative may from time to time and at any time adopt or amend rules or procedures as to any procedural or other matters regarding any aspects of

Meetings of Owners as deemed reasonably necessary to carry out the purposes and intent of this **Section 3.01**. Any such rule or procedure may be subsequently "amended" (as defined in **Section 6.03**) by two-thirds vote at any special Meeting of Owners, and any such vote of the Owners will be final unless subsequently amended by two-thirds vote at any subsequent special Meeting of Owners. Notice of adoption or amendment of any rules or procedures must be given to all Owners.

3.01.9 Association Books and Records.

(a) Maintenance. Each Owner Representative must keep current and accurate books and records of the business and affairs of the Owner Representative acting in such capacity on behalf of the Owners as herein provided, including financial records, and including minutes of the proceedings at any Meeting of Owners. Promptly after each election of an Owner Representative, the predecessor, as applicable, must deliver all such books and records to the new Owner Representative. The Owner Representative must maintain this Declaration and all other governing documents pertaining to the Subdivision permanently, and must maintain all other books and records for not less than seven years.

(b) Inspection and Copying. Every Owner may inspect and copy books and records maintained by the Owner Representative in accordance with this Declaration and policies adopted at any Meeting of Owners as to the same in accordance with Section 209.005 of the Texas Property Code. Each Owner must request Association books and records in writing from the Owner Representative, stating therein sufficient detail to identify the specific books and records being requested. each Owner requesting books and records must pay estimated costs for the compilation, production and reproduction of requested books and records in advance. Any difference in estimated and actual production costs must be paid or will be refunded as provided in Section 209.005 of the Texas Property Code. Estimated and actual production costs may not exceed the costs allowed pursuant to Texas Administrative Code, Section 70.3 as follows: (1) black and white 8½"x11" single sided copies=$0.10 per page or part of a page; (2) black and white 8½"x11" double sided copies=$0.20 per page or part of a page; (3) color 8½"x11" single sided copies=$0.50 per page or part of a page; (4) color 8½"x11" double sided copies=$1.00 per page or part of a page; (5) PDF images of documents=$0.10 per page or part of a page; (6) compact disk=$1.00 each; (7) labor and overhead=$15.00 per hour (IF over 50 pages OR IF documents located in remote storage facility); (8) mailing supplies=$1.00 per mailing; (9) postage=at cost; (10) other supplies=at cost; (11) third party fees=at costs; and (12) other costs=as permitted by current Texas Administrative Code, Section 70.3.

(c) Adoption and Amendment of Policies. Declarant during the Development Period and the Owners from time to time thereafter at any Meeting of Owners may adopt and amend such other policies regarding Association books and records as deemed necessary or appropriate, including with regard to or concerning inspection or copying of Association documents.

3.01.10 Calculation/Methods for Owner Approval. Whenever approval of Owners is permitted or required by this Declaration, such approval may be obtained (i) by execution of a written consent or approval, (ii) by affirmative vote at a Meeting of Owners, or (iii) by any combination of the foregoing. The Owner seeking approval, either pursuant to **Section 3.03** or pursuant to any other Section of this Declaration, may be counted in determining compliance with the applicable percentage requirement. Unless otherwise expressly stated herein, the requirements set forth in **Section 3.03** for approval by Owners of not less than a majority of all Lots then contained in the Subdivision also applies to any other Section hereof requiring approval pursuant to **Section 3.03**.

SECTION 3.02 Maintenance Fund.

3.02.1 Establishment. There is hereby established an Maintenance Fund into which will be paid regular assessments, special assessments and specific assessments for the discharge of the functions and duties of the Association and the Owner Representative, including maintenance, repair and replacement of all Subdivision Facilities, and for such other purposes and as otherwise herein provided. Each Owner of a Lot, by acquisition of any right, title or interest therein or acceptance of an executory contract of conveyance, or a deed or other instrument of conveyance therefore, whether or not so expressed therein, covenants and agrees to pay to the Association regular assessments, special assessments and specific assessments, as set forth herein.

3.02.2 Purpose of Maintenance Fund. The Maintenance Fund must be used exclusively for the benefit of the Subdivision and the Owners and occupants thereof, including for the maintenance of all Subdivision Facilities (including any maintenance required by any governmental entity), the discharge of all obligations of the Association and the Owner Representative pursuant to this Declaration and other governing documents, and the payment of all shared costs incident to any of the foregoing and as otherwise approved at any Meeting of Owners, and the doing of any other thing necessary or desirable in the opinion of the Owner Representative and/or the Owners for accomplishment of any of the foregoing, including the establishment and maintenance of reserves for repairs, maintenance, taxes, insurance, Managing Agents fees, and other charges, and the expenditure of funds for the benefit of other properties within the vicinity of the Subdivision if in the judgement of the Owner Representative and/or the Owners the Subdivision will benefit thereby.

3.02.3 Commencement and Proration; Personal Obligation; Transferees.

(a) The obligation to pay assessments commences as to each Lot upon completion of the initial sale of each Lot (as defined in **Section A2.01** of Exhibit "A" hereto). Assessments will be prorated at the time of closing on the said initial sale of each Lot from the first day of the month in which the closing occurs. Assessments may be prorated at the time of closing as to each subsequent resale of each Lot as the seller and buyer may agree, but no such agreement will affect in any manner the obligations for payment of assessments as and when due or the obligations of seller and buyer regarding the same as otherwise provided herein or in any other governing documents.

(b) In addition to the assessment lien herein established, each assessment is the personal obligation of each Owner of the Lot charged therewith at the time liability for the assessment accrued notwithstanding any subsequent transfer of ownership. Except as provided in **Sections 3.02.4 and 3.02.10**, each Owner's transferee, whether by purchase, gift, devise or otherwise, and whether voluntary or by operation of law, is also jointly and severally liable for payment of all unpaid assessments owed to the Association at the time of transfer without prejudice to the rights of the transferee to recover from the transferor the amounts paid by said transferee.

3.02.4 Statement of Assessments. Any transferee (or prospective transferee upon presentment of an executed earnest money contract or other writing satisfactory to the Owner Representative) is entitled to a statement from the Association setting forth all assessments due as of the date of the written request as provided in Chapter 207 of the Texas Property Code. The request must be in writing, must be addressed to the Association, and must be delivered to the Association by Electronic Means, by registered or certified mail, return receipt requested, or by personal delivery with receipt acknowledged in writing. The Owner Representative may set a reasonable charge for providing a statement of indebtedness, the payment of which is a condition precedent to the Association's obligation to provide the same. Except for fraud or misrepresentation, if the Association fails to respond to a proper written request for a statement of

indebtedness in accordance with Chapter 207 of the Texas Property Code, and upon submission of proof of delivery to the Association of a proper request, upon transfer the transferee is not liable for, and the Lot transferred is not subject to a lien for, any unpaid assessments against the Lot accruing prior to the date of receipt by the Association of the written request.

3.02.5 Uniform Rates for Regular and Special Assessments. Except as hereafter provided regarding Declarant and builder rates, regular and special assessments on all Lots must be fixed at a uniform rate, and must be determined on a per Lot basis.

3.02.6 Base Rate and Subsequent Computation of Regular Assessments.

(a) Initial Base Rate of Regular Assessments; Due Dates. The initial full base rate of the regular annual assessment for 2014 per Lot (and continuing during 2014 and thereafter unless and until modified as herein provided) is TWO THOUSAND SEVEN HUNDRED FIFTY AND NO/100 DOLLARS ($2,750.00) per Lot per year. The Owners at a Meeting of Owners have the right to require regular annual assessments be paid semi-annually, quarterly or monthly, in advance (instead of annually). In such case, the semi-annual, quarterly or monthly installments of regular annual assessments, as the case may be, will be rounded upward to the next dollar, and the regular annual assessment will be automatically adjusted upward by the amount of such rounding. UNLESS AND UNTIL OTHERWISE DETERMINED BY THE OWNERS AS AFORESAID, THE FULL AMOUNT OF REGULAR ANNUAL ASSESSMENTS IS DUE AND PAYABLE ANNUALLY, IN ADVANCE, ON THE FIRST DAY OF JANUARY OF EACH CALENDAR YEAR.

(b) Subsequent Computation of Regular Assessments. DURING THE DEVELOPMENT PERIOD, DECLARANT IS ENTITLED TO SET AND CHANGE THE ANNUAL RATE OF REGULAR ASSESSMENTS AS PROVIDED IN **SECTION 3.02.12**. Thereafter, the Owners will adopt a budget, set the annual rate of regular assessments based on the budget, and determine whether the same will be payable annually, semi-annually, quarterly or monthly in accordance with **Section 3.01.6(a)** regarding annual meetings. At least thirty days written notice of such determinations must be given to the Owners of all Lots if any change is made as to the due dates or amount of the annual rate of regular assessment. THE FOREGOING NOTICE REQUIREMENT DOES NOT APPLY DURING ALL PERIODS OF TIME DURING WHICH A DELINQUENT ASSESSMENT ACCOUNT HAS BEEN TURNED OVER TO AN ATTORNEY FOR PROCEEDINGS TO COLLECT THE SAME.

3.02.7 No Waiver or Release. Notwithstanding anything to the contrary herein, the omission or failure for any reason of the Association to mail or deliver a notice of regular assessment or due date for payment thereof does not constitute a waiver, modification or release of an Owner's obligation to pay assessments as otherwise herein provided.

3.02.8 Special Assessments. DURING THE DEVELOPMENT PERIOD, DECLARANT IS ENTITLED TO IMPOSE SPECIAL ASSESSMENTS AS PROVIDED IN **SECTION A7.01** of Exhibit "A" hereto. Thereafter, at any time and from time to time the Owners may approve a special assessment to defray any expenses or to replace any reserves, in whole or in part, at a Meeting of Owners called for such purpose by vote of the Owners of not less than a majority of the Lots. In like manner the Owners will also determine the due date(s) and manner of payment as to each special assessment which may include payment in installments.

3.02.9 Specific Assessments.

(a) Types. Specific assessments must be assessed against individual Lots and the Owner(s) thereof at the time liability for same accrues as follows:

(1) Utility and Other Services. Assessments for private trash collection services, if and as applicable, and for other utilities and/or services provided by the Association, if any, will be separately and specifically assessed to each Lot and to the Owner of each such Lot as provided in **Section 3.02.9(b) and/or (c).**

(2) Capitalization Fee. At the time of closing on the sale of each Lot, beginning with completion of the initial sale of each Lot (as defined in **Section A2.01** of Exhibit "A" to this Declaration), and at the time of closing on each subsequent sale of the Lot, a "Capitalization Fee" as provided in **Section 3.02.9(d)** must be paid to the Association.

(3) Interest. Interest from the due date at the rate of the lesser of eighteen percent (18%) per annum or the maximum legal rate, or such other rate or rates as from time to time determined by the Owners at a Meeting of Owners or as set by the Association's assessment collection policies not to exceed the maximum rate allowed by law, will be charged on all delinquent assessments, annual, special or specific.

(4) Late Charges. A late charge in the amount of TWENTY FIVE DOLLARS ($25.00) per month, or such other reasonable amount or amounts as from time to time determined by the Owners at a Meeting of Owners or as set by the Association's assessment collection policies, is hereby imposed as to any annual, special or specific assessment which is not paid in full within thirty days after payment of the same is due, beginning from the due date for payment.

(5) Compliance Costs. All expenses reasonably attributable to or incurred by reason of a breach or violation of or to obtain compliance with any provisions of this Declaration or other governing documents must be assessed against the Owner who occasioned the incurrence of such expenses, including reasonable attorney's fees whether incurred prior to, during the pendency of or after successful completion of any actions in a court of competent jurisdiction.

(6) Other Obligations (Including Fines). All other monetary obligations established by or pursuant to this Declaration or other governing documents which are intended to apply to one or several but not all Lots must be assessed against the applicable Owner(s). Such charges may include without limitation reasonable charges for: **(i)** providing a statement of assessments or indebtedness, including resale certificates; **(ii)** transfer fees to reflect changes of ownership, tenancy or occupancy on the records of the Association; **(iii)** charges for processing of applications for architectural approval; **(iv)** fines for any violation of any provisions of this Declaration or other governing documents, either as determined by the Owner Representative on a case by case basis, or as provided in applicable Rules and Regulations; and **(v)** any other charges otherwise permitted or authorized by law.

(b) Trash Collection Service. If trash collection services are provided through the Association, either as to some or as to all Lots, then all costs and expenses incurred by the Association to provide regular trash collection services must be specifically assessed to the applicable Lots expect as next provided. If private trash collection services are provided to al Lots, then all costs thereof may be included in and paid from regular annual assessments and need not be specifically assessed to individual Lots. Such services may be provided in accordance with ordinances, regulations and/or other requirements of the City of Houston, Texas, and/or in accordance with such contracts and agreement as from time to time entered by

Declarant during the Development Period or the Owner Representative at any time on behalf of the Association. Such services are not required to include pick-up or removal of large items such as sofas, chairs, dishwashers, refrigerators, stoves, televisions, large amounts of construction or remodeling materials or other items or materials other than normal accumulations of household trash, and to the extent not included all such items must be removed by and at the sole cost of the applicable Owner.

(c) Other Utility or Special Service Assessments. Additional utility or other special services assessments (such as, for example, for cable or satellite television services) may be approved by Declarant during the Development Period, and may be approved by Owners thereafter as provided in **Section 4.01.3** regarding approval by Owners as to other facilities or services.

(d) Capitalization Fees. At the time of closing on the sale of each Lot, a "Capitalization Fee" must be paid to the Association in an amount equal to twenty-five percent (25%) of the amount of the regular annual assessment then in effect, rounded up to the nearest dollar. The initial Capitalization Fee is due and payable as to each Lot upon completion of the initial sale of each Lot (as defined in **Section A2.01** of Exhibit "A" to this Declaration), and at the time of closing on each subsequent sale of the Lot. The purchaser must pay the applicable Capitalization Fee unless otherwise agreed between the purchaser and the seller. Capitalization Fees will be deposited in the Maintenance Fund, and may be used by the Association for general operations, funding of any reserves or as otherwise determined by the Owner Representative. Capitalization Fees are non-refundable and are not deemed in any manner to be an advance payment of any other assessments.

(e) Payment; Waiver. Specific assessments are due and payable immediately upon the occurrence of the event giving rise to liability for payment of the same. Failure of the Association to impose or collect any specific assessment is not grounds for any action against the Association, the Owner Representative, or any of their Related Parties, and does not constitute a waiver of the Association's right to exercise its authority to collect any specific assessments in the future. For good cause shown as determined in the sole opinion of the Owner Representative, the Owner Representative may waive, wholly or partially, imposition of any specific assessment; provided, any such waiver is conditioned upon payment in full of all remaining monetary obligations then owed to the Association or receipt of written commitment that same will be paid within a specified period of time.

3.02.10 Lien for Assessments.

(a) Establishment. All sums assessed against any Lot pursuant to this Declaration, whether by annual, special or specific assessment as provided herein, are secured by a continuing lien on such Lot in favor of the Association. The recordation of this Declaration constitutes record notice and perfection of the continuing lien, effective from the date of recordation of this Declaration. To further evidence such lien, the Association may, but is not required to, from time to time prepare and file in the Official Public Records of Real Property of Harris County, Texas, written notice of default in payment of assessments applicable to one or more Lots, in such form as the Owner Representative may direct.

(b) Priority of Lien. The Association's continuing lien is superior to all other liens or encumbrances on each Lot except:

(1) a lien for real property taxes and other governmental assessments or charges on a Lot (a "Tax Lien") to the extent so required by law but not otherwise (it being the intent hereof that the Association's continuing lien is superior to any Tax Lien if permitted by law, including as provided in Section 32.05 of the Texas Tax Code);

(2) a first lien securing payment of purchase money for a Lot, or a lien securing payment for work and materials used in constructing improvements on a Lot (a "First Lien") (i) as to and only as to assessments (regular, special or specific) the obligation for payment of which accrues from or after the applicable First Lien is duly recorded in the Official Public Records of Real Property of Harris County, Texas, and (ii) as to and only to the extent of unpaid sums secured by such First Lien;

(3) an extension of credit (commonly known as a home equity loan) made in accordance with and pursuant to Section 50(a)(6), Article XVI, of the Texas Constitution, as amended; and

(4) a reverse mortgage made in accordance with and pursuant to Section 50(a)(7), Article XVI, of the Texas Constitution, as amended.

(c) Other Liens. Except as provided in **Section 3.02.10(b)** or as otherwise expressly provided herein, all other Persons acquiring liens or encumbrances on any Lot are deemed to consent that such liens or encumbrances are inferior to the Association's lien for assessments, as provided herein, whether or not consent is specifically set forth in, and notwithstanding any contrary provisions in, any instruments creating such liens or encumbrances.

3.02.11 Effect of Nonpayment of Assessments.

(a) Delinquency Date. Any assessments, regular, special or specific, which are not paid by the due date are delinquent as of midnight of the due date.

(b) Automatic Remedies. Except to the extent otherwise required by law or as otherwise expressly agreed in writing by the Owner Representative, if any assessments are not paid by the due date, then:

(1) late charges, interest from the due date, and all compliance costs (including reasonable attorney's fees), all as set forth in **Section 3.02.9**, will be added to and included in the amount of such assessment;

(2) the Association may notify any credit bureau and/or any mortgagee or other lienholder with respect to the applicable Lot as to any default under the governing documents, including delinquency in payment of assessments and any other monetary amounts due to the Association; and/or

(3) the Association may exercise any other rights and remedies and institute and prosecute such other proceedings as it deems necessary to collect all amounts due.

(c) Action for Debt; Foreclosure; Applications for Expedited Foreclosure.

(1) Each Owner, by acquisition of any Lot within the Subdivision or any right, title or interest therein, expressly grants to and vests in the Association (i) the right and power to bring all actions against each Owner, personally for the collection of all delinquent assessments as a debt; (ii) the right and power to foreclose the Association's continuing lien for assessments by all methods available for the enforcement of a mortgage, deed of trust or any other contractual lien, including foreclosure by an action brought in the name of the Association either judicially or nonjudicially by power of sale; and (iii) a continuing power of sale in connection with the nonjudicial foreclosure of the Association's continuing lien for assessments as herein provided.

(2) The Owner Representative or the Association's managing agent may appoint, in writing, at any time and from time to time, an officer, agent, trustee, or attorney of the Association (the "Trustee") to exercise the power of sale on behalf of and as the agent of the Association, including without limitation to deliver and file the notices required by Section 51.002 of the Texas Property Code (as amended), and to conduct the sale and to otherwise comply with said the statute. The Owner Representative or the Association's managing agent may, at any time and from time to time, remove any such Trustee and appoint a successor or substitute Trustee without further formality than an appointment and designation in writing. Except as otherwise provided by this Declaration, the Association will exercise its power of sale pursuant to Section 51.002 of the Texas Property Code (as amended). The Association has the right and power to bid on any Lot at any foreclosure sale, either judicial or nonjudicial, and to acquire, hold, lease, mortgage, or convey the same.

(3) If directed by the Association as above provided to foreclose the Association's continuing lien, Trustee will, either personally or by agent, give notice of the foreclosure sale as required by the Texas Property Code as then in effect, and sell and convey all or part of the applicable property "AS IS," "WHERE IS," and 'WITH ALL FAULTS" to the highest bidder, subject to prior liens, encumbrances and any other matters of record and without representation or warranty, express or implied, by Trustee or the Association. The Association will indemnify, protect, defend and hold harmless the Trustee harmless from and against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the Association's lien or otherwise pursuant to the Declaration or other governing documents, including indemnification for all court and other costs, and attorneys fees incurred by Trustee in defense of any action or proceeding taken against Trustee regarding any of the foregoing.

(4) The filing of suit to collect any sums due hereunder or to foreclose the Association's continuing lien for assessments may never be considered an election so as to preclude exercise of any other rights or remedies, including without limitation foreclosure under power of sale before or after a final judgment. After foreclosure, either judicial or nonjudicial, the former Owner and anyone claiming under the former Owner must immediately surrender possession to the purchaser. If not, the former Owner and anyone claiming under the former Owner will be mere tenants at sufferance of the purchaser, and the purchaser may obtain immediate possession pursuant to any actions or remedies permitted by law, including an action for forcible detainer or eviction to be maintainable by the purchaser.

(5) Each owner, by acquisition of any Lot within the Subdivision or right, title or interest therein, specifically covenants and stipulates as to each and every Trustee's foreclosure sale that the recitals in any appointment or designation of Trustee, any conveyance by the Trustee and any affidavit of the Trustee or the Association related thereto will be full proof and evidence of the matters therein stated, that all prerequisites of the foreclosure sale will be presumed to have been performed, and that the foreclosure sale made under the powers herein granted will be a perpetual bar against the Owner(s) of the Lot(s) sold and their heirs, executors and administrators, successors and assigns, and any Persons whatsoever claiming or to claim thereunder.

(6) The provisions of this **Section 3.02.11(c)** are subject to Texas Property Code, Section 209.0092 regarding applications for expedited foreclosure and applicable rules of the Texas Supreme Court regarding the same. Without limitation of any other provisions of this Declaration or any other governing documents, Declarant during the Development Period or the Owner Representative thereafter are hereby specifically authorized to amend **Section 3.02.11** in any manner deemed necessary or appropriate as regarding or to conform to applicable provisions or requirements of the Texas Property Code and/or applicable rules pertaining hereto without the joinder or consent of any Owner or any other Person.

(d) Extinguishment of Inferior Liens. Foreclosure of the Association's continuing lien for assessments terminates, extinguishes and forever discharges all inferior or subordinate liens and encumbrances (being all liens and encumbrances except as provided by **Section 3.02.10(b)**) as to the affected Lot).

3.02.12 Declarant Authority and Exemption as to Assessments. NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF, ALL PROVISIONS SET FORTH IN **SECTION A7.01** of Exhibit "A" HEREOF APPLY REGARDING DECLARANT'S AUTHORITY AND EXEMPTIONS AS TO ASSESSMENTS.

SECTION 3.03 Architectural Control; Variances.

3.03.1 Approval Required. No building, structure or other improvement may be commenced, placed, constructed, reconstructed, erected or allowed to remain on, below or above the surface of any Lot, and no modification, alteration or addition (including without limitation any exterior alterations or changes as to type of materials, color, roofs, fences or exterior doors or windows) may be made as to any building, structure or other improvement, unless and until the construction plans, detailed specifications and survey or original plot plans showing the location of the building, structure or other improvements have been submitted to and approved by the Owner Representative or by the Owners as hereafter provided as to (i) compliance with this Declaration and applicable Rules and Regulations, if any, and (ii) harmony and compatibility with surrounding aesthetics, appearances and patterns of maintenance and use, harmony and compatibility with surrounding buildings, structures and other improvements, and harmony and compatibility with surrounding grades, topography, landscaping, finished ground elevations, locations, colors, finishes, styles, workmanship, type and quality of materials and designs.

3.03.2 Variance. Except as otherwise herein expressly provided, the Owners (and only the Owners) as provided in **Section 3.03.3** may approve granting of specific variances as to the covenants, conditions and restrictions set forth in **Article II.** A variance may be granted only with respect to specific instances upon written request therefor, is not binding with respect to any other request for a variance whether or not similar in nature, and does not constitute a waiver, modification or repeal of any of the provisions of this Declaration except for the limited purpose of and to the extent of the specific variance expressly granted. A variance may be granted only for good cause due to unusual circumstances which are reasonably beyond the control of the Owner requesting the same to mitigate or rectify.

3.03.3 Method for Approval. Any approval permitted or required by **Section 3.03.1** may be granted by the Owner Representative only when expressly authorized by applicable provisions of this Declaration. Any other approval as permitted by **Section 3.03.1**, and any and all approvals as to any variance as permitted by **Section 3.03.2**, may be granted only by the Owners of not less than a majority of all Lots then contained in the Subdivision. Any such approval by Owners may be obtained in any manner as provided in **Section 3.01.10** regarding calculation/method for Owner approval. Any approval as permitted by **Sections 3.03.1 or 3.03.2** may be granted subject to such conditions or requirements as determined by the Owner Representative or the Owners, as applicable, to be reasonably necessary to obtain or maintain compliance with this Declaration and with applicable Rules and Regulations, if any. Any denial of approval by the Owner Representative may be overridden by subsequent approval by the Owners as aforesaid.

SECTION 3.04 Indemnification. To the fullest extent permitted by law and any other governing documents, the Association will indemnify, protect, defend and hold harmless any person ("Association Representatives") who was, or is, a party, or is threatened to be made a party, to any threatened, pending or completed action, whether civil, criminal, administrative or investigative, by reason of the fact that the person is, or was, an Owner Representative, director, officer, committee member, employee, servant or agent of the

Association against costs or expenses, including attorneys' fees, reasonably incurred by the person in connection with such action, suit or proceeding if it is found and determined as hereafter provided that the person (i) acted in good faith and in a manner the person reasonably believed to be in, or not opposed to, the best interests of the Association, or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The determination as aforesaid will be made by the current Owner Representative, or if the current Owner Representative is the person seeking indemnification, then by the Owners at a Meeting of Owners, or in any case by a court of competent jurisdiction which judicial determination will prevail over any contrary determination by any Owner Representative or the Owners. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful. Notwithstanding the foregoing provisions, and irrespective of and without the need for any determination as aforesaid, the Association will, to the extent reasonably available, obtain insurance to indemnify, protect, defend and hold all Association Representatives harmless against any liability (y) asserted against and incurred by the person in that capacity; or (z) arising out of the person's status in that capacity.

Article IV
Maintenance, Insurance and Casualty Losses

SECTION 4.01 Association Maintenance Responsibilities.

4.01.1 General. The Association will maintain, repair and replace the Subdivision Facilities and keep same in good repair. This maintenance includes, without limitation, maintenance, repair, and replacement of all landscaping and improvements situated on or within the Subdivision Facilities.

4.01.2 Landscaping.

(a) The Association will mow, trim, edge and otherwise generally maintain all lawn and landscape areas upon each Lot which is located outside the footprint of the residence thereon, and which is visible from any street. Each Owner must provide proper access for all such maintenance by the Association as provided in **Section 4.01.4**. Without limitation of the Association's right to require and enforce compliance with the foregoing, any Owner who does not provide such access must properly perform the maintenance at such Owner's sole cost and expense (and all other maintenance required by this Declaration, including as required by **Section 4.02**). Such maintenance by the Association will include general fertilization, and insect and disease control. Except as otherwise herein expressly provided, maintenance by the Association will not include (i) any type of treatment or control as to termites, carpenter bees or any similar type of wood infestation or other infestations not specific to ordinary landscape maintenance (such as, for example but without limitation, treatment or control as to wasp or bee hives, mice, rats, squirrels or any other type of rodent, vermin or pests), or (ii) any exotic landscaping installed by any Owner (whether or not approved), or any flower beds or similarly landscaped areas or any trees or shrubbery, all of which must be maintained by the Owner of each Lot, or (iii) any other maintenance substantially greater than as generally provided throughout the Subdivision.

(b) Except as otherwise herein expressly provided, the obligations of the Association pursuant to this **Section 4.01.2** are limited to general and routine maintenance of lawn and landscape areas as above provided. Specifically, but without limitation of the foregoing, replacement of any lawn or landscaping, irrigation system and any other improvements upon each Lot due to disease, freezing, hail, hurricane or any other storm, or due to any other weather conditions, or which may be caused or necessitated by any other cause or condition, is the sole responsibility of the Owner of each Lot.

(c) The Association may replace any lawn or landscape area which is located upon a Lot and which is maintained by the Association, but all costs thereof will be specifically assessed to the applicable Owner. The Association may also maintain, repair and/or replace such other lawn and landscape areas in such manner and to the extent as from time to time approved by the Owner Representative, and may specifically assess all costs thereof to the applicable Owner or Owners. Without limitation of any other provisions hereof, no landscaping may be removed from or added to, and nothing else may be done within, any area maintained by the Association which may or does increase the Association's cost of maintenance without the prior written approval of the Owner Representative. Whether or not approved, the Owner Representative may specifically assess any such added cost of maintenance to the responsible Owner(s).

(d) DECLARANT DURING THE DEVELOPMENT PERIOD AND THE OWNERS BY MAJORITY VOTE AT ANY MEETING OF OWNERS THEREAFTER HAVE FULL AUTHORITY, TO EXPAND, MODIFY, REPLACE, REMOVE OR IN ANY OTHER MANNER CHANGE ANY AND ALL LANDSCAPING MAINTAINED BY THE ASSOCIATION, INCLUDING ANY SUCH LANDSCAPING LOCATED UPON ANY LOT. IT IS EXPRESSLY STIPULATED AND AGREED THAT THE ASSOCIATION DOES NOT REPRESENT, GUARANTEE OR WARRANT THE VIABILITY, TYPE, QUALITY, QUANTITY OR CONTINUED EXISTENCE OF ANY LANDSCAPING WITHIN OR IN THE VICINITY OF THE SUBDIVISION, INCLUDING ANY LANDSCAPING LOCATED UPON ANY LOT, AND NO OWNER OR OTHER PERSON WILL EVER HAVE ANY CLAIM WHATSOEVER AGAINST THE ASSOCIATION OR ANY OF ITS RELATED PARTIES REGARDING, DIRECTLY OR INDIRECTLY, ANY LANDSCAPING.

4.01.3 Other Facilities or Services. The Association will maintain such other properties, real or personal, and such other facilities, services and improvements as may be required by governmental authorities, any municipal utility districts or other utility providers, any special tax and development districts, and any other similar entities, such maintenance to be in accordance with applicable contracts, agreements, ordinances, rules, regulations and decisions of such authorities. Declarant is specifically authorized to enter any such contracts or agreements on behalf of the Association, and to bind the Association thereto, and Declarant may amend this Declaration at any time either during or after the Development Period to the extent it deems necessary by reason of any such contract or agreement. The Owners of not less than fifty-one percent of all Lots then contained in the Subdivision may also approve providing of other Subdivision Facilities, including other services to be provided through the Association, in any manner as provided in **Section 3.01.8** regarding calculation/method for Owner approval. In like manner the Owners will determine if costs and expenses for the other facilities or services will be included in regular assessments or specifically assessed to the Owner of each Lot.

4.01.4 Access; Cooperation. Each Owner must afford to the Association and its Related Parties access upon, above, under and across the Owner's Lot and must otherwise fully cooperate with the Association and its Related Parties to the fullest extent reasonably necessary for any maintenance, repair, reconstruction or replacement by the Association as permitted or required by this Article, this Declaration or any other governing documents. Without limitation of the foregoing, each Owner must promptly comply with all policies, decisions and directives of Declarant or the Owner Representative as to access and in all other respects as is reasonably necessary for the Association to promptly and properly perform any such maintenance, repair, reconstruction or replacement.

4.01.5 Owner's Liability for Payment of Association Costs. Each Owner, their tenants, and their respective Related Parties, are expressly prohibited from doing anything which could or does **(i)** increase the Association's costs of insurance or result in cancellation or diminution in insurance coverage, **(ii)** cause damage to any Subdivision Facilities, or **(iii)** increase costs of maintenance, repair, replacement, management,

operation or discharge of any other obligations of the Association regarding the Subdivision Facilities, or any other areas maintained by the Association. Regardless of availability of insurance coverage, the Association may charge to each responsible Owner, as a specific assessment, all increased costs and all other damages resulting, directly or indirectly, from the acts or omissions of an Owner, their tenants, or their respective Related Parties, in violation of the foregoing provisions.

SECTION 4.02 Maintenance of Residences, Landscaping and Other Improvements. Each Owner and occupant must maintain the exterior of each Owner's residence, garage, and all other buildings, structures, fences, walls, recreational equipment and improvements located upon each Owner's Lot, in an attractive, sound and well maintained condition, including proper maintenance and repair as needed of paint, bricks, siding, roofs, rain gutters, downspouts, exterior walls and all other exterior portions of the Owner's residence and garage. Without limitation of the foregoing, each Owner must provide proper repair and maintenance as and when needed as follows (the term "residence" includes the appurtenant garage, as applicable):

4.02.1 Exterior Paint. The exterior paint on each Owner's residence must be maintained so that no portion thereof peels, scales or cracks excessively, and all painted portions remain neat and free of mildew and discoloration. Any change of exterior colors or color scheme must be approved as provided in **Section 3.03.**

4.02.2 Windows. The windows must be maintained so that no caulking thereon is chipped or cracked and no window panes are cracked or broken.

4.02.3 Exterior Doors. All exterior doors, including garage doors, must be maintained, repaired, replaced and/or repainted as needed to prevent an unkept or unsightly appearance and such as to maintain same in proper working condition, including replacement as needed of damaged or dented garage door panels and any cracked or broken glass in any door.

4.02.4 Exterior Woodwork. The exterior woodwork on each Owner's residence, and all windowsills, door jams and thresholds, framing, hinges, latches and locks, must be maintained so that it remains whole, sound, neat and fully operational.

4.02.5 Roof. The roof on each Owner's residence must be maintained to prevent sagging, to prevent leaks, so that all shingles are properly secured, curled or damaged shingles are replaced and no worn areas or holes are permitted to remain, and such that the structural integrity and exterior appearance of the roof is maintained.

4.02.6 Rain Gutters and Downspouts. The rain gutters and downspouts on each Owner's residence, if any, must be maintained so that all are properly painted or treated to prevent rust and corrosion, are properly secured to roof, eaves, gables or exterior walls (as the case may be), are maintained without holes, and are promptly repaired or replaced if dented or otherwise damaged.

4.02.7 Concrete Areas. All concrete areas on each Owner's Lot, including sidewalks and any driveway, must be maintained, repaired and replaced as needed to maintain their appearance and functional and structural integrity. Without limitation of the foregoing, all such areas must be maintained so that all cracks are appropriately patched or surfaced as they appear, expansion joints are maintained, repaired or replaced, as needed, and oil, grease and other stains are removed as they appear, and all such areas must be kept free of weeds, grass or other vegetation.

4.02.8 Fences and Walls. All fences or walls erected on each Owner's Lot must be maintained as provided in **Section 2.12.**

4.02.9 Recreational Equipment. All recreational equipment, must be maintained to prevent any unsightly or unkept condition.

4.02.10 Landscaping. Unless otherwise maintained by the Association, all grass, shrubbery, trees, flower beds, vegetation and all other landscaping, either natural or artificial, on each Lot must be properly irrigated and otherwise properly maintained at all times in accordance with the seasons as reasonably necessary to obtain and maintain on a consistent and continuing basis a sanitary, healthful and attractive condition and appearance and to eliminate any condition which may create any unsanitary condition or become a harborage for rodents, vermin or other pests, including without limitation regular mowing and edging of grass, and, if any grass or shrubs become diseased or die, prompt replacement thereof with grass or shrubs of like kind and quality. IN ANY CASE WHERE A LOT ABUTS A STREET, THE OWNER MUST IRRIGATE AND MAINTAIN ALL LANDSCAPING TO THE STREET CURB REGARDLESS OF WHETHER THE LOT LINE IN FACT EXTENDS TO THE STREET CURB UNLESS OTHERWISE APPROVED AT A MEETING OF OWNERS.

SECTION 4.03 Utilities. The Owner of each Lot must maintain in proper working order, and on a continuing basis, all sanitary sewer lines and facilities, drainage or storm water lines and facilities, water pipelines, water sprinkler system, water meters and related water lines and facilities, electrical and gas lines, meters and facilities, telephone and any other telecommunication lines, devices or facilities, and all other facilities, utilities and services which service each Lot (the "Owner Utilities"), regardless of the location of the Owner Utilities, save and except to the extent the Association is expressly required by this Declaration to provide such maintenance or to the extent maintenance of any Owner Utilities is provided and actually performed by any governmental entity or utility company. Utilities which service more than one Lot must be maintained, repaired and replaced by all of the Owners of the multiple Lots served, pro rata, or in such other proportions as determined by Owners at a Meeting of Owners when the circumstances clearly demonstrate that a different manner of allocation is required. UTILITY LINES, DEVICES AND RELATED FACILITIES FOR OWNER UTILITIES WHICH SERVICE EACH LOT MAY BE LOCATED UPON MULTIPLE LOTS BY OR WITH THE CONSENT OF DECLARANT DURING THE DEVELOPMENT PERIOD. ALL SUCH UTILITY LINES, DEVICES AND RELATED FACILITIES ARE DEEMED TO BE A PART OF THE OWNER UTILITIES FOR THE APPLICABLE LOT OR LOTS SERVICED BY THE SAME. SUBJECT TO APPLICABLE PROVISIONS OF **SECTION 5.01** REGARDING NOTICE, DURATION, USAGE AND RESTORATION, EACH LOT IS SUBJECT TO BLANKET EASEMENTS FOR PURPOSES OF CONTINUING MAINTENANCE OF ALL SUCH UTILITY LINES, DEVICES AND RELATED FACILITIES, AND FOR MAINTENANCE, REPAIR, RECONSTRUCTION AND REPLACEMENT OF THE SAME BY THE APPLICABLE OWNER AND SUCH OWNER'S RELATED PARTIES.

SECTION 4.04 Casualty Losses - Owner Responsibilities.

4.04.1 Required Repair; Permitted Removal. Whether or not insured, in the event of damage, casualty loss or other destruction to all or any portion of a residence, garage, building, structure or other improvement (a "Damaged Improvement"), the Damaged Improvement must be repaired, reconstructed or replaced in its entirety, or it must be demolished and removed as hereafter provided.

4.04.2 Manner of Repair or Removal. All repair, reconstruction or replacement of any Damaged Improvement must be performed in such manner as to restore the Damaged Improvement to

substantially the same exterior dimensions and appearance (including as to color, type and quality of materials and architectural style and details) as, and must be located in substantially the same location as, when the Damaged Improvement was originally constructed, or to such other appearance, condition and/or location as approved by Owners as provided in **Section 3.03**. In the case of demolition and removal, the Damaged Improvement must be removed in its entirety, including removal of any foundation, and all other restoration work performed, including grading and sodding, as is required such that after demolition and removal prevailing community standards are maintained.

4.04.3 Time Limits. All work regarding a Damaged Improvement must be completed within one hundred twenty days as to a residence, including appurtenant garage, and within sixty days as to any other Damaged Improvement after the date of occurrence of the damage, casualty loss or other destruction; or, where such work cannot be completed within the applicable period of time, the work must be commenced within such period and completed within a reasonable time thereafter. In all events, all such work must be completed within one hundred eighty days as to a residence, including appurtenant garage, and within ninety days as to any other Damaged Improvement after the date of occurrence of the damage, casualty loss or other destruction unless, for good cause shown, a longer period is approved by Owners as provided in **Section 3.03**.

4.04.4 Utilities. Notwithstanding any other provisions hereof to the contrary, and whether or not insured, any damage or destruction to utility lines or other facilities which disrupt or interfere with utility services to any other Lot, residence or Subdivision Facilities must be repaired or replaced as soon as practical. All due diligence must be exercised to complete all such repairs or replacements, including installation of temporary utility lines or other temporary facilities pending completion of the repairs and/or replacements if necessary to prevent disruption of utility services to any other Lot, residence or Subdivision Facilities.

4.04.5 Owner Approval Required. All work and any other activities pursuant to the requirements of this Section must be approved by Owners as provided in **Section 3.03**.

SECTION 4.05 Insurance.

4.05.1 Owner Insurance. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS DECLARATION, OBTAINING OF LIABILITY AND PROPERTY INSURANCE REGARDING AND FOR EACH LOT AND ALL IMPROVEMENTS THEREON (INCLUDING RESIDENCE AND APPURTENANT STRUCTURES AND THE CONTENTS THEREOF) IS THE SOLE RESPONSIBILITY OF THE OWNER THEREOF.

4.05.2 Association Insurance. To the extent reasonably available, the Association will maintain property insurance on all insurable Subdivision Facilities insuring against all risk of direct physical loss commonly insured against, including fire and extended coverage, in a total amount of at least eighty percent of the replacement cost or actual cash value of the insured property, comprehensive liability insurance, including medical payments insurance, libel, slander, false arrest and invasion of privacy coverage, and covering all occurrences commonly insured against for death, bodily injury, and property damage, and such other insurance as determined by the Owners as hereafter provided. THE ASSOCIATION, THE OWNER REPRESENTATIVE AND THEIR RELATED PARTIES ARE NOT LIABLE FOR FAILURE TO OBTAIN ANY INSURANCE COVERAGE OR TO OTHERWISE COMPLY WITH ANY OTHER PROVISIONS OF THIS SECTION REGARDING SAME IF SUCH FAILURE IS DUE TO UNAVAILABILITY OR TO EXCESSIVE COSTS AS DETERMINED BY THE OWNERS, OR FOR ANY OTHER REASON BEYOND THE REASONABLE CONTROL OF THE ASSOCIATION.

4.05.3 Coverage Requirements. THE TYPES AND FORMS, AMOUNTS, DEDUCTIBLES, LIMITS AND ALL OTHER TERMS OF AND INSURANCE COVERAGE AS PROVIDED IN **SECTIONS 4.05.1** AND **4.05.2**, MUST BE DETERMINED FROM TIME TO TIME AT APPLICABLE MEETINGS OF OWNERS.

Article V
Easements

SECTION 5.01 Maintenance Access Easements.

5.01.1 Applicability. The Maintenance Access Easement set forth in this **Section 5.01** applies to any Lot or any part thereof which is adjacent to another Lot or any part thereof upon which any "Accessing Property Improvement" is located. The property upon which any Accessing Property Improvement is located is herein referred to as the "Accessing Property." The adjacent property to be accessed pursuant to the Maintenance Access Easement is herein referred to as the "Access Easement Property." The area of land on the Access Easement Property to which the Maintenance Access Easement will apply is herein referred to as the "Access Area." "Accessing Property Improvement" means any of the following improvements, ANY PART OF WHICH IS LOCATED ON THE ACCESSING PROPERTY WITHIN THREE FEET OF THE LOT LINE OR BOUNDARY LINE OF THE ACCESS EASEMENT PROPERTY: (i) any residence or garage, and any boundary line fencing as originally constructed during the Development Period, (ii) any utilities or Subdivision Facilities as described in **Section 5.03**, and (iii) any other improvements constructed or placed within the Access Area as permitted by **Section 5.01.5** hereof.

5.01.2 Establishment; Purposes. Each Access Easement Property is subject to a non-exclusive access easement upon, over, under and across the Access Easement Property to the extent and for the purposes hereafter stated (the "Maintenance Access Easement"). The Maintenance Access Easement also includes all necessary rights of ingress, egress and regress thereto and there from. The Maintenance Access Easement is for the use and benefit of the Owner of the Accessing Property, and their agents, contractors or employees, for the purposes of inspection, construction, maintenance, repair or replacement of any Accessing Property Improvement.

5.01.3 Permitted Access Area. The Access Area consists of a strip of land on the Access Easement Property abutting and extending along the entire common boundary line of the Accessing Property and the Access Easement Property. The Access Area extends from the said common boundary line, inward on to the Access Easement Property for a distance of not less than three feet nor more than six feet, as may be reasonably required, provided that, except in the case of an emergency, in no other event will the Maintenance Access Easement extend to any part of any single family residence, garage, or other building located on the Access Easement Property.

5.01.4 Notice; Duration; "Emergency" Defined.

(a) Prior to use of the Access Area, the Owner or occupant of the Accessing Property must give written notice of intent to utilize the Access Area, stating therein the nature of intended use and the anticipated duration of such usage. The notice must be delivered to the Owner or occupant of Access Easement Property by regular or certified mail, or by personal delivery, or by attaching the notice to the front door of the residence located upon the Access Easement Property. If by mail, the notice must be given at least ten days prior to use of the Access Area; and if by personal delivery or affixing to the front door, the notice must be given at least seven days prior to use of the Access Area. In the case of an emergency the Owner or occupant of the Accessing Property may commence and continue usage of the Access Area without giving the foregoing notice for so long as is reasonably necessary to control the

emergency and complete work necessitated thereby, but must proceed with giving of the required notice as soon as practical after commencement of usage.

(b) As used in this Section (and in this Declaration, and in any other governing documents when applicable), "emergency" means **(i)** any condition which may or does cause an imminent risk of infestation by termites, rats or other vermin, or any other health, fire or safety hazard, **(ii)** any condition which may or does cause water infiltration in to another Lot, Subdivision Facilities or any improvements located thereon, and **(iii)** any other thing, condition or exigent circumstances which may or does present an imminent risk of harm or damage to any Lot or Subdivision Facilities, or any improvements thereon or to any Owners or occupants thereof. The determination of the Owner Representative or its Related Parties that an emergency exists is final.

5.01.5 Usage. THE ACCESS AREA MAY BE UTILIZED ONLY WHEN AND TO THE EXTENT THE APPLICABLE INSPECTION, CONSTRUCTION, MAINTENANCE, REPAIR OR REPLACEMENT CANNOT BE REASONABLY CONDUCTED WITHIN THE BOUNDARIES OF THE ACCESSING PROPERTY. Without limitation of the foregoing or any other provisions of this **Section 5.01**, usage of the Access Area is also limited to the minimum reasonable amount of time and area required to perform and complete the applicable inspection, construction, maintenance, repair or replacement of the applicable Accessing Property Improvement. Work during the usage period must be conducted in such manner as to minimize so far as reasonably possible inconveniences and disruptions to the Access Easement Property and its occupants. Except in the case of an emergency or unless otherwise authorized by the Owner or occupant of the Access Easement Property, work during the usage period may not be conducted during legal holidays or any Sunday and must otherwise be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays.

5.01.6 Approval of Access Area Improvements Required. No building, structure or other improvements may be constructed, placed, installed or maintained within the Access Area of any Lot unless approved as provided in **Section 3.03**; provided that the foregoing does not apply (i) to any building, structure or improvement constructed or placed within the Access Area during original construction during the Development Period, or (ii) to grass, or to customary, non-exotic flower and shrubbery beds. Notwithstanding the foregoing, the Owners may not approve any such buildings, structures or improvements which would substantially interfere with, or be unduly burdensome to, or which would cause excessive expense to any potential owner or occupant of any Accessing Property if access becomes necessary as herein provided. The Owners also may not approve construction of any addition to a residence or garage as originally constructed during the Development Period which would be located within three feet of an adjacent Lot line without the prior written consent of the Owner or Owners of all such adjacent property or properties and the approval of the permitting department of any applicable governmental agency.

5.01.7 Restoration. Promptly after completion of usage of an Access Area, the applicable Owner and occupant of the Accessing Property must thoroughly clean the Access Area, and must repair and restore the same to substantially the same condition that existed at the time of commencement of usage. The foregoing includes repair or replacement of any property line fencing which is damaged or removed as a result of such usage. The foregoing does not include or apply to any building, structure or improvement which has been placed in the Access Area without Owner approval as provided in **Section 5.01.6**. AT THE TIME OF RECEIPT OF NOTICE, THE OWNER OR OCCUPANT OF THE ACCESS EASEMENT PROPERTY MUST PROMPTLY NOTIFY THE OWNER OR OCCUPANT OF THE ACCESSING PROPERTY IN WRITING AS PROVIDED IN **SECTION 5.01.4** OF ANY STRUCTURES OR IMPROVEMENTS WITHIN THE ACCESS AREA WHICH HAVE BEEN APPROVED BY THE OWNERS AS AFORESAID.

SECTION 5.02 Blanket Access Easement. Declarant hereby reserves in favor of all Owners a continuing non-exclusive easement upon, over, under and across each Lot, and as to the exterior of the residence and garage thereon, and as to the exterior and interior of any other improvement thereon, to the extent reasonably necessary for the performance of any of the joint functions or duties of all Owners as herein provided or for the exercise of any of their rights regarding the same under this Declaration. Prior to exercise of any such easement rights written notice must be given to the Owner or occupant of the affected Lot stating the expected date of commencement of usage, the nature of the intended use and anticipated duration of such usage. The notice may be given either as permitted in **Section 6.04** regarding notices to Owners, or by affixing the notice to the front door of the residence on the applicable Lot. The notice must be given at least ten days before the expected date of commencement of usage. In the case of an emergency the right of entry and usage is immediate without notice, but in such case notice as aforesaid must be given as reasonable soon as practicable. Promptly after completion of usage, the accessed area must be thoroughly cleaned, repaired and/or restored as needed to substantially restore the accessed area to at least the same condition that existed at the time of commencement of usage.

SECTION 5.03 Governmental Functions; Removal of Obstructions. Blanket non-exclusive easements and rights-of-way are hereby granted to the city, county and other governmental authorities having jurisdiction over the Subdivision, to all police, fire protection, ambulance and other emergency vehicles, to garbage and trash collection vehicles and other service vehicles , to the United States Post Office and similar services, and to the respective agents and employees of all of the foregoing, for access, ingress and egress upon, over and across any portion of each Lot and throughout the Subdivision for purposes of the performance of any official business without liability of any kind. THE CITY AND OTHER GOVERNMENTAL AUTHORITIES AS AFORESAID ARE ALSO SPECIFICALLY AUTHORIZED TO REMOVE OBSTRUCTIONS IF NECESSARY FOR EMERGENCY AND SERVICE VEHICLE ACCESS, AND TO ASSESS THE COST OF REMOVAL TO THE OWNER OF AND/OR ANY OWNER OR OTHER PERSON WHO CREATED THE OBSTRUCTION.

5.04 Certain Subdivision Facilities (Including Gate Easements).

5.04.1 During the Development Period, Declarant may establish such easements within the Subdivision (and will be deemed to have established such easements as hereafter provided), including upon, under, over and across any Lot or Subdivision Facilities, as Declarant may determine to be necessary or appropriate for the placement, installation, operation, maintenance, repair or replacement of (i) mail box banks, water banks, master water meters, electrical banks and/or other utilities, facilities or services designed to serve two or more single family residences, (ii) Subdivision entry and/or other identification signs and/or monuments, (iii) access limiting type structures or devices obtained for maintenance by the Association, including without limitation one or more controlled access gates, gate operators and related structures or devices, (iv) lines, wires, conduits, cables, pipes, manholes, hydrants and any and all other components, equipment, facilities or devices relating to any of the foregoing, and (v) reasonable working space, and necessary rights of access, ingress, egress and regress relating to any of the foregoing. Nothing in this Section, including the foregoing, requires Declarant or the Association to construct, install, maintain, repair or replace any of the foregoing, or if constructed or installed to maintain, repair or replace any of the same if and to the extent any of the same is otherwise maintained by any utility provider or governmental or quasi-governmental agency.

5.04.2 THE EASEMENTS ESTABLISHED BY THIS SECTION INCLUDE WITHOUT LIMITATION EASEMENTS AS TO ALL AREAS OF ANY LOT AFFECTED BY PLACEMENT OR OPERATION THEREIN OR THEREON OF ANY "ACCESS LIMITING DEVICES" (AS DEFINED IN **SECTION 2.12.5**), AND DECLARANT, THE ASSOCIATION, THE OWNER REPRESENTATIVE AND THEIR RELATED PARTIES HAVE NO LIABILITY WHATSOEVER BY REASON OF ANY LOSS OF

USAGE OR ANY OTHER CONSEQUENCES RESULTING FROM ANY SUCH EASEMENTS AS TO ANY AREAS AFFECTED THEREBY. Such affected areas may include for example loss of use of a private driveway area for parking in order to permit proper opening and/or closing of controlled access gate within the affected area. It is the responsibility of the Owner of any Lot containing any such affected area, such Owner's tenants and their Related Parties to keep all such areas open and unobstructed, and to otherwise prevent any interference with the proper functioning, operation maintenance, repair or replacement of any access limiting device. Without limitation of the foregoing, parking (including temporary parking) as otherwise herein permitted is expressly hereby prohibited within any area which would impede or impair operation of any access limiting device.

5.04.3 PERMANENT EASEMENTS ARE DEEMED TO HAVE BEEN ESTABLISHED BY DECLARANT REGARDING, COVERING AND AS TO ANY SUBDIVISION FACILITIES PLACED OR CONSTRUCTED UPON ANY LOT BY DECLARANT DURING THE DEVELOPMENT PERIOD. AS TO EACH SUCH SUBDIVISION FACILITY. THE AFORESAID EASEMENTS EXTEND TO THE AREA OF LAND COVERED BY THE SUBDIVISION FACILITIES, TOGETHER WITH REASONABLE WORKING SPACE AND NECESSARY RIGHTS OF INGRESS, EGRESS AND REGRESS FOR PURPOSES OF THE INSTALLATION, MAINTENANCE, OPERATION, REPAIR AND REPLACEMENT OF THE FACILITY. Declarant may, but is not required to, file a formal easement or easements covering any such Subdivision Facilities in the Official Public Records of Real Property of Harris County, Texas, either during or after termination of the Development Period, and the Owner Representative may do so at any time after termination of the Development Period.

SECTION 5.05 Utilities.

5.05.1 Easements as shown on an applicable recorded Plat or otherwise of record and rights of ingress, egress and regress as to the same for installation, maintenance and operation of utilities and drainage facilities are reserved. Within these easements, no structure, planting or other materials may be placed or permitted to remain which may damage or interfere with the installation, maintenance or operation of utilities. The easement areas of each Lot and all improvements therein or thereon may be maintained by the Owner of the Lot, except those improvements of a public authority or utility which are maintained by such authority or utility. The title to a Lot does not include title to any utility facilities located within easements or streets. No public authority or utility will be liable for damage to any plants, structure or buildings located in or on such easements or streets because of the installation or maintenance of the utility facilities.

5.05.2 In addition to all other applicable easements as established herein or by any Plat, a private non-exclusive easement is hereby granted under any private Street located within the Subdivision for purposes of erecting, installing, operating, maintaining, replacing, inspecting and removing any electrical, water, sewer, gas, cable television and any other utilities, together with rights of ingress and egress to or from any such easement. This easement does not include by implication or otherwise any appurtenant aerial easement.

5.05.3 Declarant during the Development Period or the Owners at any Meeting of Owners thereafter may also extend, from time to time and at any time, any part of or all of the Drainage Easements established pursuant to **Section 2.07** to permit temporary or permanent usage of the same for the purposes of installing, maintaining, repairing, replacing or removing any utilities, including but not limited to, water, sewer, gas, electric, cable or telecommunication (a "Utility Easement"). Without limitation, the foregoing includes the right of Declarant during the Development Period to locate and maintain upon any Lot any meters, submeters, backflow valves and any other lines, pipes, equipment or facilities related to providing of water, storm water, storm water detention, sewer or related services to the Subdivision.

SECTION 5.06 A/C Condensing Units.

5.06.1 General. Declarant may place or approve placement of air conditioner condensing units and related pads, wiring, lines, conduits and devices (an "A/C Unit") along any Lot line of a residence in such manner that the A/C Unit encroaches on an adjacent Lot (i) to a distance of not more than forty-eight inches (48") in the case of an A/C Unit located along the Zero Lot Line of a residence, and (ii) to a distance of twenty-four inches (24") in any other case. In either case, it will be deemed that the Owner of the encroached upon property, has granted perpetual easements (x) for continuing placement of the A/C Unit(s) thereon, and (y) for maintenance, repair and replacement of the A/C Unit(s) in substantial compliance with the original installation of the A/C Unit(s). To the extent the Owner of the Lot with the encroaching A/C Unit(s) do not otherwise have reasonable outside access from the front of the residences to the rear of the residence, the Owner of the encroached upon property will also be deemed to have granted a perpetual easement for ingress, egress and regress to and around the A/C Unit(s) and over the encroached upon property to the extent reasonably necessary for such access. The A/C Unit(s) may also be enclosed by property line fencing around the part(s) of the A/C Unit(s) which extend over the Lot line in such manner as may be approved by Declarant or the Owners as provided in **Section 3.03**. Declarant or the Owners pursuant to **Section 3.03** may also prohibit fencing along the common boundary line along which one or more A/C Units encroach, and/or limit fencing to enclosure at the front and back of the residence sharing the common boundary line (with gates).

5.06.2 A/C Unit Banks. Without limitation of the preceding subsection, during the Development Period Declarant may place or authorize placement of multiple A/C Units upon one or more Lots such that the multiple A/C Units service one or more Lots other than the Lot(s) upon which the A/C Units are located. In such event the easements as established by **Sections 5.01 and 5.02** and as provided in the preceding subsection regarding placement, maintenance, repair and replacement apply to all such multiple A/C Units and also extend to any wires, lines, conduits and devices extending from each such A/C Unit to the Lot to be serviced by the applicable A/C Unit.

5.06.3 Access. The provisions of **Section 5.01** regarding notice, duration, usage and restoration apply to exercise of the easement rights granted by this **Section 5.06**.

SECTION 5.07 Egress/Regress to Public Way Required. All single family residences must be constructed, and thereafter the same and related improvements must be maintained, such that a continuous and unobstructed means of ingress, egress and regress to a common public way is maintained in accordance with applicable building codes and ordinances.

SECTION 5.08 Easements Reserved. Title to any Lot conveyed by contract, deed or other conveyance may not be held or construed in any event to include the title to any easement established by or pursuant to this Declaration, including this **Article V**, and including but not limited to any roadways or any drainage, water, gas, sewer, storm sewer, electric light, electric power, telephone or other telecommunication, or any pipes, lines, poles, or conduits on or in any utility facility, service equipment or appurtenances thereto. Easement rights established by or pursuant to this Declaration, including this **Article V**, may not, once established or obtained, be adversely affected by any amendment of this Declaration. The foregoing does not limit subsequent abandonment or other modification of easement rights in accordance with applicable instruments covering any easement, by consent or agreement of the affected parties, or as otherwise provided by law.

Article VI
Miscellaneous Provisions

SECTION 6.01 Development Period. All provisions set forth in Exhibit "A" attached hereto and entitled "Development Period" are incorporated by reference herein. Notwithstanding any other provisions of this Declaration or any other governing documents to the contrary, all provisions set forth in Exhibit "A" apply during the Development Period (and thereafter as therein provided).

SECTION 6.02 Term. Subject to the provisions of **Sections 6.03** of this Declaration and **Section A8.01** of Exhibit "A" hereto, these covenants, conditions, restrictions, reservations, easements, liens and charges run with the land and are binding upon and inure to the benefit of all Owners, their legal representatives, heirs, executors and administrators, predecessors, successors and assigns, and all Persons claiming under them for a period of twenty years from the date this Declaration is filed in the Official Public Records of Real Property of Harris County, Texas, after which time said covenants, conditions, restrictions, reservations, easements, liens and charges will be automatically extended for successive periods of ten years each.

SECTION 6.03 Amendment By Owners. Subject to the provisions of **Section A8.01** of Exhibit "A" hereto, and except as otherwise expressly herein provided, the Owners of two-thirds (2/3rds) of the total number of Lots then contained within the Subdivision always have the power and authority to amend this Declaration, in whole or in part, at any time and from time to time. Owner approval of any amendment of this Declaration may be obtained by execution of the amending instrument or a consent thereto. The approval of multiple owners of a Lot may be reflected by the signature of any single co-owner. In this Declaration and all other governing documents the terms "amend", "amendment" or substantial equivalent mean and refer to any change, modification, revision or termination of any provisions of this Declaration or other governing documents. Prior to filing of any proposed amendment of record, an Owner may withdraw an approval or consent to the proposed amendment only by giving written notice thereof to the Owners of all other Lots, including Declarant as applicable, and any other Person that would be affected thereby, and filing of record of a true and correct copy of the notice. Any such notice of withdrawal is effective only if received by Declarant and all other Owners and Persons, as applicable, and filed of record prior to filing of record of the applicable amendment. No approval or consent may be withdrawn after filing of record of an amendment, and any change, modification, revision or termination as to the amendment may be made after filing of record only by subsequent amendment duly adopted in accordance with this Declaration or other applicable governing documents. Any lawful amendment of this Declaration will be effective from and after filing of the amending instrument in the Official Public Records of Real Property of Harris County, Texas, or such later date as may be stated in the amending instrument.

SECTION 6.04 Notices and Other Communications.

6.04.1 General.

(a) "Notice" Defined. "Notice" means and refers to all notices or other communications permitted or required under this Declaration, as amended. ANY NOTICE IS DEEMED PROPERLY GIVEN ONLY IF GIVEN IN ACCORDANCE WITH THIS **SECTION 6.04** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS DECLARATION. ALL NOTICES MUST BE GIVEN IN WRITING, MUST BE PROPERLY DATED AND SIGNED, AND MUST IDENTIFY ALL PERSONS GIVING THE NOTICE AND ALL PERSONS TO WHOM THE NOTICE IS BEING GIVEN. NOTICE BY ELECTRONIC MEANS WHEN PERMITTED HEREBY CONSTITUTES A WRITTEN AND SIGNED NOTICE.

(b) Delivery. Except as otherwise expressly provided herein, all notices may be given by personal delivery acknowledged in writing, by certified or registered mail, return receipt requested, or by Electronic Means, all in accordance with this **Section 6.04**. Notices by mail must be by deposit of the notice, enclosed in a postpaid properly addressed wrapper, in a post office or official depository under the case and custody of the United States Postal Service. Personal delivery may be made to any person at the recipient's address, or in the case of any Owner or tenant by posting on the front door at the Owner's Lot address (or alternate street address, if applicable). Any such personal delivery may be acknowledged either by the recipient or by a third-party delivery service.

6.04.2 To Whom and Where Given.

(a) Declarant. All notices to Declarant either during or after the Development period must be given to Declarant as provided in Section 5.255 of the Texas Business Organizations Code, as amended, at Declarant's registered office or at Declarant's principal office. NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF (i) ALL NOTICES TO DECLARANT MUST BE GIVEN ONLY BY PERSONAL DELIVERY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND (ii) ALL NOTICES BY DECLARANT TO ANY OWNER OR OWNER'S TENANT MAY BE GIVEN AS PROVIDED IN **SECTION A5.01.1** OF EXHIBIT "A" HERETO.

(b) Association; Owner Representative. All notices to the Association or Owner Representative during the Development Period must be given to Declarant as above provided. Thereafter, all notices to the Association or Owner Representative must be given (i) to the Association's statutory agent in accordance with the most recently filed appointment of statutory agent according to the records of the Texas Secretary of State, if any, or (ii) to the Owner Representative in the same manner as permitted for delivery of notice to the Owner Representative as an Owner, or (iii) if the Association has a Managing Agent, then to the Association manager at the offices of the Managing Agent, or (iv) in accordance with the Association's most recently filed management certificate.

(c) Owners; Tenants. All notices to an Owner must be delivered to the Owner at the Owner's Lot address, or to the Owner's alternate street mailing address provided to the Association by the Owner as hereafter set forth. All notices to the tenant of an Owner must be delivered to the Lot address of the Lot at which the tenant resides.

(d) By Electronic Means. In lieu of (or in addition to) delivery to a street mailing address as above provided, notice may be given by Electronic Means (i) to an Owner or Owner's tenant according to the records of the Association, or (ii) to the Association or the Association's Managing Agent, if any, in accordance with procedures as provided by the same upon written request of any Owner or tenant, or as otherwise provided by the Association (such as by publication in an Association newsletter, or as set forth in the Association's most recently filed management certificate). THE ASSOCIATION MAY SEND NOTICES AND OTHER COMMUNICATIONS BY, AND MAY CONDUCT ANY MEETINGS BY, ELECTRONIC MEANS NOTWITHSTANDING THE FAILURE TO MAINTAIN COMMUNICATIONS CAPABILITIES BY ELECTRONIC MEANS BY ANY OWNER, IT BEING THE RESPONSIBILITY OF EACH OWNER TO MAINTAIN COMMUNICATIONS CAPABILITIES BY ELECTRONIC MEANS.

(e) When Delivered. Notices or other communications are considered to be delivered, as applicable, on the day of personal delivery or deposit in the United States mail in accordance with this **Section 6.04**, or on the day and at the time the communication by Electronic Means is successfully transmitted, provided that transmission of any facsimile or email after 5:00 o'clock p.m. local time of the recipient will be deemed to be delivered on the following day.

(f) Deemed Delivery. REFUSAL TO RECEIVE OR ACCEPT DELIVERY OR TRANSMISSION OF ANY NOTICE GIVEN IN ACCORDANCE WITH THIS **SECTION 6.04**, OR FAILURE TO PROPERLY MAINTAIN THE MEANS FOR DELIVERY OR TRANSMISSION (SUCH AS FOR EXAMPLE BUT WITHOUT LIMITATION, FAILURE TO PROPERLY MAINTAIN A MAILBOX, OR FAILURE TO MAINTAIN RECEPTION CAPABILITIES FOR NOTICES BY ELECTRONIC MEANS), IS DEEMED ACTUAL NOTICE AND ACTUAL KNOWLEDGE OF THE MATERIALS REFUSED.

6.04.3 Owner/Tenant Contact/Occupancy Information.

(a) Contact Information Required. As used in this Section "contact information" means name, Lot address, alternate Owner street mailing address, if applicable, home and work telephone numbers, and as applicable, mobile and facsimile numbers, and email address. Not later than thirty days after acquiring an ownership interest in a Lot, the Owner of the Lot must give notice to the Association of the contact information for all Persons who are Owners of the applicable Lot, and the name(s) of any other person(s) occupying the Lot other than the Owner. Not later than thirty days after acquiring a leasehold interest or other right of occupancy in a Lot, the Owner of the Lot must give notice to the Association of the contact information for all Persons who are tenants as to or who have otherwise acquired a right to occupy the applicable Lot. Not later than thirty days after any change in any contact information, the Owner of the applicable Lot must give notice to the Association of all such changes. ANY OWNER OR TENANT MUST ALSO PROVIDE, CONFIRM AND UPDATE ALL CONTACT INFORMATION UPON WRITTEN REQUEST FROM THE ASSOCIATION WITHIN TEN DAYS FROM THE DATE OF THE REQUEST OR SUCH LATER DATE AS MAY BE STATED IN THE REQUEST.

(b) Required Procedure. ANY NOTICE UNDER SUBSECTION (A) ABOVE, INCLUDING ANY CONTACT INFORMATION NOTICE OR REPLY TO A REQUEST FOR CONTACT INFORMATION, MUST BE GIVEN SEPARATELY AND FOR THE SOLE PURPOSE OF PROVIDING THE CONTACT OR OTHER INFORMATION. FOR EXAMPLE, SENDING AN EMAIL FROM A DIFFERENT OR NEW EMAIL ADDRESS, OR INCLUDING A NEW EMAIL ADDRESS IN A COMMUNICATION SENT FOR OTHER PURPOSES, DOES NOT CONSTITUTE NOTICE AND DOES NOT IN ANY MANNER OBLIGATE THE ASSOCIATION TO MAKE ANY CHANGE IN ITS RECORDS OF THE ASSOCIATION BASED THEREON.

(c) Conflicts; Effective Date of Change. IN THE EVENT OF ANY CONFLICT BETWEEN ANY NOTICES RECEIVED BY THE ASSOCIATION, THE NOTICE LAST RECEIVED BY THE ASSOCIATION WILL CONTROL. EACH NOTICE RECEIVED BY THE ASSOCIATION WILL CONTROL UNTIL THE EXPIRATION OF THREE BUSINESS DAYS AFTER RECEIPT OF A PROPER SUBSEQUENT NOTICE.

6.04.4 One Address/Number and Delivery Limit. NO OWNER MAY MAINTAIN MORE THAN ONE CURRENT MAILING ADDRESS WITH THE ASSOCIATION FOR PURPOSES OF NOTICE. NO OWNER OR OWNER'S TENANT MAY MAINTAIN MORE THAN ONE CURRENT EMAIL ADDRESS AND ONE CURRENT FACSIMILE NUMBER WITH THE ASSOCIATION FOR PURPOSES OF NOTICE. THE ASSOCIATION IS NOT REQUIRED TO GIVE NOTICE BY MORE THAN ONE DELIVERY METHOD, AND ANY REQUEST, DIRECTIVE OR AGREEMENT TO THE CONTRARY IS VOID. WHEN MORE THAN ONE PERSON IS THE OWNER OR TENANTS OF A LOT, THE GIVING OF NOTICE AS AFORESAID TO ANY SINGLE OWNER OR TENANT CONSTITUTES NOTICE GIVEN TO ALL OWNERS OR TENANTS.

6.04.5 Other Information. The Association may from time to time by written request require any Owner or tenant to verify any information covered by this **Section 6.04**, or to provide other information or documentation relevant to the functions of the Association by submission of such information and documentation as the Association may reasonably require.

SECTION 6.05 Enforcement. Any Owner, including Declarant, has the right to enforce observance and performance of all restrictions, covenants, conditions and easements set forth in this Declaration, and in order to prevent a breach thereof or to enforce the observance or performance thereof have the right, in addition to all legal remedies, to an injunction either prohibitive or mandatory. Each Owner and tenant of an Owner are jointly and severally liable for any violation of this Declaration, and for payment of all damages, costs and attorneys fees incurred by reason thereof. Payment of all such damages, costs and attorneys fees is secured by the continuing lien established by **Section 3.02**. Invalidation of any one of the restrictions, covenants, conditions or easements set forth herein by judgment or court order will in no way affect any of the other provisions hereof which will remain in full force and effect.

SECTION 6.06 Managing Agent. Declarant during the Development Period or the Owner Representative thereafter have the authority, from time to time and at any time, to retain, hire, employ or contract with any one or more Persons to provide management services to the Association, including discharge of such functions and duties of the Association and/or the Owner Representative (any such Person herein referred to as a "Managing Agent"). Any Managing Agent will be retained, hired, employed or contracted for on such terms and conditions as the Declarant or the Owner Representative, as applicable, may determine; provided, the Association has the right in all cases as to any Managing Agent to remove the Managing Agent, with or without cause, upon not more than sixty days notice.

SECTION 6.07 Conflicts In Governing Documents. In the event of any conflict in the Association's governing documents which cannot be reasonably reconciled after application of rules of interpretation as provided herein or by law, this Declaration controls over any other governing documents, and all other governing documents control in the following order of priority: **(i)** Rules and Regulations; **(ii)** Owner/Member resolutions; **(iii)** Owner Representative policies or resolutions; and **(iv)** all others.

SECTION 6.08 Repeal of Initial Declaration. The "Initial Declaration" means that certain instrument entitled "Declaration of Covenants, Conditions, Restrictions and Easements for Enclave At Schuler" heretofore filed on April 29, 2914, under Clerk's File No. 20140174942, Official Public Records of Real Property of Harris County, Texas. This Declaration replaces the Initial Declaration in its entirety, effective immediately upon the filing of this Declaration in the Official Public Records of Harris County, Texas, except to the extent this Declaration may be determined to be invalid or inapplicable to the Subdivision, or any Lot therein, or any part thereof, or any right, title or interest pertaining thereto, in which case and to such extent the Initial Declaration will apply, and in such case and to that extent (but only in such case and to such extent) the Initial Declaration is hereby ratified and confirmed and will continue in full force and effect.

SECTION 6.09 Effective Date. This Declaration is effective from and after the date of filing of same in the Official Public Records of Real Property of Harris County, Texas.

EXECUTED this 19th day of May, 2014.

WEEKLEY HOMES, LLC,
a Delaware limited liability company
"Declarant"

By: _____
Name: John Burchfield
Title: General Counsel

DECLARANT'S ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 19th day of May, 2014, by John Burchfield, as General Counsel of WEEKLEY HOMES, LLC, a Delaware limited liability company, on behalf of the company.

KAYE LOGAN
NOTARY PUBLIC
STATE OF TEXAS
MY COMMISSION EXPIRES
JULY 28, 2017

_____
Notary Public, State of Texas
Name: Kaye Logan
My Commission Expires: 7-28-17

RESTATED AND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

ENCLAVE AT SCHULER

EXHIBIT "A": DEVELOPMENT PERIOD

A1.01 Application. Notwithstanding any other provisions of the Declaration or any other governing documents to the contrary, the provisions of this Exhibit "A" apply during the Development Period (and thereafter as herein provided). In the event of any conflict between the Declaration or any other governing documents and this Exhibit "A," the provisions of this Exhibit "A" shall control.

A2.01 Declarant Rights and Easements; Completion of Initial Sales Defined.

A2.01.1 Notwithstanding any other provisions of this Declaration or any other governing documents, during the Development Period (and thereafter as applicable) Declarant is fully authorized to exercise all Declarant rights and authority as provided in or permitted by the Declaration, including this Exhibit "A," and all other applicable governing documents, independently and unilaterally, and without the joinder, vote or consent of the Owner Representative, any other Owner or any other Person.

A2.01.2 Until the First Election Meeting of Owners as provided in **Section A5.03**, Declarant has exclusive authority to appoint, reappoint, remove or replace any Owner Representative. Except as otherwise required by Section 209.0051(i) of the Texas Property Code, and until the First Election Meeting of Owners, the Owner Representative may take any action authorized by the Declaration, including this Exhibit "A," without holding an Owner Representative Meeting, and without notice to, and without the joinder, vote or consent of, any Owner or any other Person. Any provisions of the Declaration, including this Exhibit "A," or any other governing documents which are inconsistent with or contrary to the foregoing are specifically declared inapplicable until the First Election Meeting of Owners.

A2.01.3 Declarant hereby reserves and retains full and exclusive authority to grant architectural approvals and/or variances pursuant to **Section 3.03** of the Declaration, and to engage in any and all Development Activities regarding each Lot and the Subdivision until completion of the initial sale of each Lot to an Owner other than Declarant or an Authorized Builder, whether or not completion of the initial sale occurs during or after the Development Period. Without limitation of the foregoing, Declarant is not required to obtain architectural or any other approval from the Owner Representative, any Owner or any other Person as to any of the foregoing.

A2.01.4 As used in the Declaration, and as to each Lot, "completion of the initial sale" means and occurs upon substantial completion of the construction of a single family residence and related improvements upon the Lot and the sale of the Lot to a Person other than Declarant or an Authorized Builder for use and occupancy of the Lot for a single family residence.

A2.01.5 Declarant is deemed to be an Owner for all purposes during the Development Period whether or not Declarant continues to own any Lot.

A3.01 Approval of Builder ("Authorized Builder") By Declarant Required. During the Development Period no builders are permitted to construct any residence or appurtenant improvements upon any Lot or to otherwise conduct any Development Activities within the Subdivision other than those builders (if any, and whether one or more) which have been approved in advance in writing by Declarant (said approved builder or builders sometimes herein referred to as an "Authorized Builder"). Notwithstanding designation of a builder as an Authorized Builder, Declarant expressly reserves the right from time to time and at any time to regulate the activities of any Authorized Builder, and to limit, modify or remove any rights of an Authorized Builder which may otherwise be granted pursuant to the Declaration. Declarant's approval of any builder does not pass to any successor builder, and may not be otherwise transferred or assigned. Declarant's right to approve (or disapprove) any builder during the Development Period may be assigned only to another "Declarant" as so designated in accordance with applicable provisions of the Declaration.

A4.01 Declarant's Development Authority; "Development Activities" Defined; Easements.

A4.01.1 Declarant, Declarant's Related Parties, any Authorized Builder, and the constructors, sub-contractors, suppliers, vendors, sales agents, realtors and all other related personnel of Declarant or an Authorized Builder, have the right to transact any business and conduct any activities reasonably necessary for all construction within, and all development of, the Subdivision, and for the sale or rental of Lots and single family residences and any other improvements to be constructed within the Subdivision (all such construction, development, sales and all related business and activities herein referred to as "Development Activities"), including without limitation as set forth in this **Section A4.01**.

A4.01.2 In addition to, but without limitation of the foregoing, until completion of all Development Activities, including the sale of all Lots to an Owner other than Declarant or an Authorized Builder, Declarant and any Authorized Builder are specifically authorized to (i) maintain models, (ii) have, place and maintain any "signs" (as defined in **Section 2.10**) and any other promotional devices within the Subdivision, (ii) conduct from time to time an "open house", and similar events for realtors, prospective purchasers and the public in general, and (iv) in conjunction with any Development Activities, to leave limited access gates, if any, open for any periods of time (or at all times) and otherwise provide for or permit access to the Subdivision by any personnel involved in any Development Activities, to prospective purchaser, to realtors and to any other persons as Declarant reasonably determines is necessary or convenience to the conducting of any Development Activities

A4.01.3 Declarant and any Authorized Builder, and their agents or employees (including any contractor or subcontractor) are entitled during the Development Period to use and exercise all easements set forth in the Declaration for, and Declarant may grant or exercise such additional easements for, ingress, egress and usage as Declarant deems appropriate or necessary for conducting of any and all Development Activities. In addition to, but without limitation of the foregoing, until completion of all Development Activities within the Subdivision, Declarant and any Authorized Builder shall also have a temporary construction easement upon, under, over, across and above each Lot and all Subdivision Facilities for purposes of installation, construction and completion of the residence, garage and any other structures or improvements upon any adjacent Lot or Subdivision Facilities and the conducting of any other Development Activities in relation thereto, provided that this easement shall not extend in any manner to the interior of any residence or garage owned by an Owner other than Declarant or an Authorized Builder and may not be utilized in such manner as to block ingress or egress as to same, and provided further that

Declarant or any Authorized Builder utilizing this easement shall restore any parts of the Lot or Subdivision Facilities affected by such usage to as nearly as practicable the same condition it was prior to such usage promptly upon completion of such usage.

A5.01 First Election Meeting of Owners.

A5.01.1 Within a reasonable time after termination of the Development Period, or such earlier date as determined by Declarant, Declarant shall send notice to the Owners of all Lots requesting the Owners call and conduct the "First Election Meeting of Owners." Notwithstanding any other provisions hereof or of any other governing documents, any notices of or relating to the First Election Meeting of Owners may be mailed by regular mail to the street address of each Lot and may be addressed to "Association Member" or similar generic term. There is no duty by any Person giving any such notice to confirm ownership or any other mailing address. With the consent of the designee, Declarant may designate any Member/Owner in the notice as chairperson for the meeting. If Declarant does not designate a chairperson, then the Owners of not less than twenty percent (20%) of the Lots then contained in the Subdivision must designate a Member/Owner to act as the chairperson for the meeting. The designation of a chairperson by Owners as aforesaid shall be dated and signed by each Owner, and the earliest dated designation (being the date of signature by the last Owner to sign the designation whereby the minimum percentage of Owners is obtained) will control in the event of any conflict. The designated chairperson must call and conduct the First Election Meeting of Owners within forty-five days after the date of Declarant's notice, and must give notice of the meeting to Declarant and to the Owners of all other Lots. An Owner Representative must be elected at the First Election Meeting of Owners by plurality vote of all Owners participating in the meeting other than Declarant. The Owners shall otherwise conduct the First Election Meeting of Owners as provided in **Section 3.01.6**. Declarant may but is not required to attend the meeting. The Owner of each Lot is entitled to one vote at the First Election Meeting of Owners on each matter coming before the meeting.

A5.01.2 For a period of two years following termination of the Development Period, Declarant must be given written notice of election by Owners of an Owner Representative within ten days after the election. The notice must state the name, mailing address, telephone number, and email address of the Owner Representative. Within a reasonable time after receipt of the notice regarding election of the first Owner Representative by Owners, Declarant will turn over to the Owner Representative so designated by Owners all funds, books and records of the Association, if any, then in the possession or control of Declarant.

A5.01.3 IF THE OWNERS FAIL TO ELECT AN OWNER REPRESENTATIVE OR TO GIVE DECLARANT WRITTEN NOTICE THEREOF WITHIN TWO YEARS PLUS ONE DAY AFTER THE DATE OF DECLARANT'S NOTICE REQUESTING OWNERS HOLD THE FIRST ELECTION MEETING OF OWNERS, THEN **(i)** ALL FUNDS OF THE ASSOCIATION REMAINING IN THE POSSESSION OR CONTROL OF DECLARANT, IF ANY, WILL BE DEEMED ABANDONED AND EXCLUSIVE OWNERSHIP THEREOF SHALL BE AUTOMATICALLY TRANSFERRED TO DECLARANT, AND **(ii)** ALL BOOKS AND RECORDS OF THE ASSOCIATION REMAINING IN THE POSSESSION OR CONTROL OF DECLARANT, IF ANY, MAY BE STORED AT THE EXPENSE OF THE ASSOCIATION, AND AT ANY TIME AFTER EXPIRATION OF FOUR YEARS PLUS ONE DAY MAY BE DESTROYED.

A5.01.4 UPON THE EARLIEST TO OCCUR OF THE TERMINATION OF THE DEVELOPMENT PERIOD, OR THE ELECTION BY OWNERS OF AN OWNER REPRESENTATIVE AT THE FIRST ELECTION MEETING OF OWNERS, OR SIXTY DAYS AFTER THE DATE OF

DECLARANT'S NOTICE TO OWNERS REQUESTING THE OWNERS CALL AND CONDUCT THE FIRST ELECTION MEETING OF OWNERS AS PROVIDED IN **SECTION A5.01.1**, THEN **(i)** DECLARANT (OR ANY OTHER PERSON DESIGNATED BY DECLARANT) SHALL BE AUTOMATICALLY REMOVED AS AN OWNER REPRESENTATIVE AND THEREBY FULLY RELEASED AND DISCHARGED FROM ANY FURTHER RIGHTS, DUTIES, LIABILITIES AND RESPONSIBILITIES REGARDING THE ASSOCIATION OR THE SUBDIVISION, AND **(ii)** THE ASSOCIATION AND ITS MEMBERS BECOME WHOLLY AND SOLELY RESPONSIBLE FOR THE MANAGEMENT, MAINTENANCE AND OPERATION OF THE ASSOCIATION AND THE SUBDIVISION, INCLUDING WITHOUT LIMITATION FULL AND SOLE ASSUMPTION BY THE ASSOCIATION OF ALL MAINTENANCE RESPONSIBILITIES OF THE ASSOCIATION.

A6.01 Subdivision Facilities.

A6.01.1 General. DURING THE DEVELOPMENT PERIOD DECLARANT MAY PROVIDE AND CONSTRUCT SUCH SUBDIVISION FACILITIES AS DECLARANT MAY DESIRE. ONCE PROVIDED OR CONSTRUCTED, ALL COSTS AND EXPENSES OF THE OPERATION, MANAGEMENT, MAINTENANCE, REPAIR AND REPLACEMENT OF SUBDIVISION FACILITIES, INCLUDING ALL COSTS AND EXPENSE OF INSURANCE THEREON AND ALL TAXES COVERING OR FAIRLY ALLOCABLE THERETO, WILL BE PAID BY THE ASSOCIATION (EITHER DIRECTLY OR BY REIMBURSEMENT TO DECLARANT) REGARDLESS OF WHETHER OR NOT TITLE HAS BEEN TRANSFERRED OR CONVEYED TO THE ASSOCIATION AND REGARDLESS OF WHETHER OR NOT ANY APPLICABLE CONTRACT, AGREEMENT OR OTHER ARRANGEMENT FOR OPERATION, MANAGEMENT, MAINTENANCE, REPAIR OR REPLACEMENT IS IN THE NAME OF, IS PROCURED THROUGH OR HAS BEEN TRANSFERRED OR ASSIGNED TO THE ASSOCIATION. ANY RIGHT, TITLE OR INTEREST TO ALL SUBDIVISION FACILITIES, REAL OR PERSONAL, WILL BE TRANSFERRED, CONVEYED OR ASSIGNED TO THE ASSOCIATION ON AN "AS IS", "WHERE IS" AND WITH ALL FAULTS" BASIS, AND, EXCEPT FOR SPECIAL WARRANTY OF TITLE BY, THROUGH OR UNDER DECLARANT, WITHOUT ANY COVENANT, WARRANTY, GUARANTY OR REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW.

A6.01.2 Transfer and Assumption Obligations. During the Development Period Declarant may obtain water, electrical and other utilities, facilities or services on behalf of the Owners and/or the Association for the benefit of the Subdivision. In connection therewith, Declarant may also install meters and other devices, including without limitation electrical and telephone services for gates, if any, and may obtain water, electric or other services and establish accounts as to any of the same in the name of Declarant. All such utilities, facilities and services are part of the Subdivision Facilities and shall be maintained as such. Declarant may transfer any such utilities, facilities or services to the Association or request that the Association do so at any time. Any request for transfer may be made in the notice requesting the Owners call and conduct the First Election Meeting of Owners as provided in **Section A5.01.1** hereof. All such transfers must be made at the sole costs of the Association and/or all Owners other than Declarant. Any deposits, advance payments or similar fees paid by Declarant as to any such utilities, facilities or other services must be refunded to Declarant, either directly or by reimbursement, and the aforesaid costs of transfer shall include any deposits, advance payments and similar fees required for continuation of the applicable utilities, facilities or other services. All transfers as requested by Declarant in any notice requesting the Owners call and conduct the First Election Meeting of Owners must be completed within sixty days after the date of the notice, failing which Declarant may terminate any applicable utilities, facilities or other services, without further notice to the Association, any Owner or any other Person, and obtain or retain

any applicable refunds of deposits, advance payments or similar fees. The provisions of this **Section A6.01.2** are cumulative of, and without limitation as to, the provisions of **Section A6.01.1**.

A7.01 Declarant Authority and Exemption as to Assessments; Reimbursement.

A7.01.1 NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF, DECLARANT IS EXEMPT FROM PAYMENT OF ANY ANNUAL, SPECIAL OR SPECIFIC ASSESSMENTS UNTIL THE FIRST DAY OF JANUARY FOLLOWING TERMINATION OF THE DEVELOPMENT PERIOD. DURING THE DEVELOPMENT PERIOD DECLARANT MAY ALSO EXEMPT ANY AUTHORIZED BUILDER FROM PAYMENT OF ANNUAL, SPECIAL OR SPECIFIC ASSESSMENTS, IN WHOLE OR IN PART. IN THE EVENT OF RE-ACQUISITION OF OWNERSHIP OF ANY LOT BY DECLARANT, DURING THE DEVELOPMENT PERIOD, SUCH LOT AND DECLARANT SHALL AGAIN BE EXEMPT FROM PAYMENT OF ANY ASSESSMENTS. The forgoing shall also apply to any Lot used by Declarant or an Authorized Builder for a model residence or other development, marketing or sales purposes regardless of whether record title remains in Declarant or an Authorized Builder (such as, for example but without limitation, in the case of the sale of a resident to an Owner and lease back to Declarant for use as a model). In such cases, completion of the initial sale as provided in **Section A2.01** shall not be deemed to have occurred until the first day of the month following termination of any such use of the Lot by Declarant or an Authorized Builder.

A7.01.2 During the Development Period Declarant is entitled to established all Association budgets and to set and change the amounts of regular and specific assessments and/or to impose special assessments without the joinder, vote or consent of any Owner or any other Person, and without further formality than giving of notice thereof to the Owners to the extent notice by the Association would otherwise be required by the Declaration.

A7.01.3 During the Development Period Declarant will only budget for such operating expenses of the Association as Declarant deems to be essential to the operation of the Association, and Declarant's determinations as to the same (and as to any other matters pertaining to the provisions of this **Section A7.01**) are final. In addition to and not in limitation of the foregoing, and notwithstanding any other provisions of the Declaration or any other governing documents, during the Development Period Declarant is not required to budget for or to otherwise collect any funds for payment of any capital expenditures (determined in accordance with generally accepted accounting principles), or for payment to or funding of any capital, contingency or other reserves.

A7.01.4 Declarant may advance funds to the Association or directly pay any operating expenses of the Association. In either case Declarant shall be entitled to reimbursement from the Association and/or all other Owners upon demand and presentment of a reasonable itemization. Any such demand and presentment may be made from time to time and at any time either during the Development Period, or within two years plus one day after termination of the Development Period. Reimbursement shall be without interest if paid within thirty days after demand. Thereafter, interest will accrue at the rate of eighteen percent (18%) per annum or the highest rate allowed by law, whichever is less, or at such lower rate as Declarant in Declarant's sole discretion may agree to in writing.

A8.01 Amendment of Governing Documents; Changes in Composition of Subdivision.

A8.01.1 General. During the Development Period Declarant reserves the sole and exclusive right, without joinder, vote, consent or any other approval of, and without notice of any kind to, the

Association, any Owner or any other Person (i) to adopt, amend, modify, revise or repeal, from time to time and at any time, this Declaration and any other governing documents, (ii) to prepare, amend, modify, revise or repeal any Plat covering or to cover the Subdivision, including without limitation elimination, change or reconfiguration of any Lots, reserves, compensating open space, street, easement, or any other parts, features, depictions, descriptions, notes, restrictions and any other aspects of any Plat, or any amendments or revisions thereof, (iii) to designate, construct or expand the Subdivision Facilities, and to modify, eliminate, discontinue, reconfigure, redesign, redesignate, or in any other manner change the Subdivision Facilities, (iv) to grant one or more residential use easements in any part of any reserve in favor of any Owner whose Lot or any part thereof abuts a reserve, in which case the area of land covered by each residential use easement shall be appurtenant to and shall be subject to all applicable provisions of this Declaration and all other applicable governing documents to the same extent as the applicable abutting Lot, and to all other provisions of the residential use easement grant, (v) to combine with, annex in to and/or to otherwise make a part of the Subdivision any other real property, as provided in **Section A8.01.2**, (vi) with the consent of the owner thereof, to withdraw or remove any real property from the Subdivision, and (vii) as to any or all of the foregoing, to amend this Declaration, any Plat and any other governing documents accordingly.

A8.01.2 Post-Development Period Annexation. Without limitation of **Section A8.01.1** above, at any time within the lesser of ten years after filing of record of this Declaration or six years after termination of the Development Period, and with the written consent of all owners thereof, Declarant may, without the joinder, vote, consent or any other approval of, and without notice of any kind to, the Association, any Owner or any other Person, combine with, annex in to and to make a part of the Subdivision any other real property, any part of which is adjacent to, or across any street from, or otherwise located within one-half mile from, any part of the Subdivision as configured at the time of the combination or annexation. In the event of annexation after the Development Period as aforesaid, the Development Period will thereby be automatically reinstated ipso facto as to all of the annexed real property until completion of the initial sale of the last Lot in the annexed real property. IN THE EVENT OF ANY ANNEXATION, AND WITHOUT LIMITATION OF ANY OTHER PROVISIONS HEREOF, EASEMENTS AND RIGHTS-OF-WAY ARE HEREBY ESTABLISHED FOR ACCESS TO, AND INGRESS, EGRESS AND REGRESS OVER, ANY AND ALL STREETS OR SHARED DRIVES WITHIN THE SUBDIVISION. ALL SUCH EASEMENTS AND RIGHTS-OF-WAY SHALL APPLY TO THE FULLEST EXTENT AND AT ANY AND ALL TIMES AS DECLARANT IN DECLARANT'S SOLE DISCRETION DEEMS NECESSARY OR APPROPRIATE TO THE CONSTRUCTION, COMPLETION AND MARKETING OF ALL RESIDENCES AND OTHER IMPROVEMENTS UPON ALL LOTS, AND THE CONDUCTING OF ALL OTHER DEVELOPMENT ACTIVITIES REGARDING THE SAME, THROUGH COMPLETION OF THE INITIAL SALE OF THE LAST LOT WITHIN ALL ANNEXED PROPERTIES.

A8.01.3 Effective Date. Any amendment, modification, revision, repeal, residential use easement, combination, annexation or other matter as provided in this Section will be effective from and after the date of filing of notice thereof in the Official Public Records of Real Property of Harris County, Texas, except to the extent expressly otherwise provided in the applicable document.

A9.01 Binding Arbitration; Limitations. Declarant may, by written request, whether made before or after institution of any legal action, require that any Dispute (as hereafter defined) be submitted to binding arbitration to be conducted in Harris County, Texas in accordance with the Construction Industry Arbitration Rules (or substantial equivalent) of the American Arbitration Association. "Dispute" means any claim, demand, action or cause of action, and all rights and remedies regarding the same, which is claimed or assorted by any Owner, or by their Related Parties, against or advise to Declarant, or to any Related Party of Declarant, regarding (i) the Declaration, including this Exhibit "A," and (ii) any of Declarant's

development and/or sales activities within or regarding the Subdivision, including the construction of any residence or other improvement and the conducting of any other Development Activities. The decision(s) of the arbitrator shall be final and binding, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The initial cost of such arbitration shall be borne by the party incurring the same, but the cost of such proceeding, including, without limitation, expert witness fees and reasonable attorneys fees, shall be awarded to the prevailing party. NOTICE OF ANY DISPUTE MUST BE GIVEN TO DECLARANT NOT LATER THAN ONE HUNDRED TWENTY DAYS AFTER, AND SUIT REGARDING ANY DISPUTE MUST BE FILED IN A COURT OF COMPETENT JURISDICTION NOT LATER THAN TWO YEARS PLUS ONE DAY AFTER, THE DATE ANY CAUSE OF ACTION REGARDING THE DISPUTE ACCRUES.

A10.01 No Impairment of Declarant's Rights. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE DECLARATION OR ANY OTHER GOVERNING DOCUMENTS, NO PROVISIONS OF THIS EXHIBIT "A," AND NO OTHER RIGHTS OR LIMITATIONS OF LIABILITY APPLICABLE TO DECLARANT PURSUANT TO THE DECLARATION, INCLUDING THIS EXHIBIT "A," OR PURSUANT TO ANY OTHER GOVERNING DOCUMENTS, MAY BE AMENDED, MODIFIED, CHANGED OR TERMINATED, EITHER DURING OR AFTER TERMINATION OF THE DEVELOPMENT PERIOD, WITHOUT THE PRIOR WRITTEN CONSENT OF DECLARANT.

F:\wp\LWB\ba\DWH\6.0 Sub\Schuler\Decl-Res & Amend\Decl-Ex A.wpd

ER 057 - 02 - 1275

20140216199
Pages 68
05/21/2014 14:04:51 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees 280.00

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

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.

Stan Stanart
COUNTY CLERK
HARRIS COUNTY, TEXAS