

OLD REPUBLIC TITLE  
GF # 2102795

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
TOWN CREEK CROSSING

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**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR TOWN CREEK CROSSING**

This Declaration of Covenants, Conditions and Restrictions for Town Creek Crossing (this "Declaration"), made as of the date hereinafter set forth by **TOWN CREEK CROSSING LLC**, a Texas limited liability company (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the following tract(s) of land situated in Montgomery County, Texas:

*See Exhibit "A" attached hereto.*

WHEREAS, it is the desire of the Declarant to provide a common plan as to the use, permissible construction, and common amenities of such subdivision and, to this end to subject the Lots (hereinafter defined) in the Town Creek Crossing subdivision to the covenants, conditions and restrictions hereinafter set forth for the benefit of all present and future owners thereof;

NOW, THEREFORE, Declarant hereby declares that the Lots in the Town Creek Crossing subdivision and in any other property hereafter annexed into the jurisdiction of the Association (as hereinafter defined) in accordance with the provisions hereof and made subject to this Declaration, if any, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with said Lots and shall be binding upon all parties having any right, title or interest in said Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

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

SECTION 1. "Architectural Review Committee" or "ARC" refers to the committee created by Section 2 of Article II of this Declaration which has the power to adopt the Builder Guidelines and Landscaping Guidelines and the right to approve plans and specifications for construction of proposed improvements on the Lots within the jurisdiction of the Association and the right to approve plans and specifications for the alteration or modification of improvements on the Lots as set forth herein.

SECTION 2. "Association" shall mean and refer to the Town Creek Crossing Association, Inc., a Texas non-profit corporation, its successors and assigns.

SECTION 3. "Board" shall mean the Board of Directors of the Association.

SECTION 4. "Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot to be offered for sale.

SECTION 5. "Builder Guidelines" shall mean and refer to written guidelines for the construction of improvements adopted by the ARC, as amended from time to time. The Builder Guidelines may contain provisions applicable to all of the Lots within the jurisdiction of the Association as well as certain provisions which are applicable only to the Lots in a specific platted subdivision or subdivisions.

SECTION 6. “Common Area” shall mean and refer to all properties, real or personal, owned, leased or used by the Association for the common use and enjoyment of the Members (hereinafter defined) of the Association, if any.

SECTION 7. “Declarant” shall mean and refer to Town Creek Crossing LLC, a Texas limited liability company, its successors or assigns, provided that an assign is designated in writing by the Declarant as an assign of all, or part, of its rights under this Declaration.

SECTION 8. “Landscaping Guidelines” shall mean the guidelines as further defined in Section 2 of Article II hereof.

SECTION 9. “Lot” shall mean and refer to any portion of the Properties, whether developed or undeveloped, upon which a residence has been constructed or is intended to be constructed, excluding reserve tracts, but including lots created by the platting or replatting of a reserve tract. “Lots” shall mean and refer to each Lot and all of them. In the case of a parcel of land planned for residential development which has not been platted into Lots, the parcel shall be deemed to contain the number of Lots designated by the Declarant on the development plan for such parcel of land unless or until a different number of Lots is platted.

SECTION 10. “Member” shall refer to every person or entity which holds a membership in the Association.

SECTION 11. “Neighborhood” shall mean and refer to (i) a portion of the land within the Properties which has been platted as a single subdivision, (ii) a portion of a platted subdivision or two (2) or more platted subdivisions within the Properties which the Declarant, by recorded instrument, designates as a single Neighborhood, or (iii) a portion of a platted subdivision or multiple subdivisions which the Board designates or consolidates into a single Neighborhood as set forth in Section 5 of Article III hereof.

SECTION 12. “Neighborhood Assessments” shall mean assessments levied by the Board for payment of Neighborhood Expenses of a particular Neighborhood.

SECTION 13. “Neighborhood Expenses” shall mean and include the actual and estimated expenses incurred by the Association solely for the benefit of the Owners of the Lots within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements.

SECTION 14. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest. In the event an Owner has leased or rented such Owner’s premises to one or more third parties (provided that such leasing or renting is not otherwise prohibited), such Owner shall be fully liable and responsible for causing such third parties (and the applicable property) to fully comply with the provisions of this Declaration.

SECTION 15. “Properties” shall mean and refer to the real property within the jurisdiction of the Association being (i) the property described on Exhibit “A” attached hereto and (ii) any additional property hereafter annexed to the jurisdiction of the Association as provided herein.

SECTION 16. “Street” shall refer to any street, drive, boulevard, road, alley, lane, avenue, or thoroughfare.

SECTION 17. "Supplemental Declaration" shall refer to (i) a separate declaration of covenants, conditions, and restrictions which is imposed on property within the jurisdiction of the Association and which may be enforced by the Association or (ii) an instrument which imposes additional restrictions on a portion of the Properties which may be enforced by the Association.

ARTICLE II  
ARCHITECTURAL REVIEW COMMITTEE

SECTION 1. PURPOSE. In order to establish and preserve a harmonious and aesthetically pleasing design for the Town Creek Crossing project and to protect and promote the value of the Properties, the Lots shall be subject to the restrictions set forth in this Article II. Every grantee of any interest in a Lot by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

SECTION 2. ARCHITECTURAL REVIEW COMMITTEE. There is hereby established the Town Creek Crossing Architectural Review Committee (sometimes hereinafter called the "ARC"), which shall have exclusive jurisdiction over all original construction on the Lots and over modifications, additions, or alterations made on or to the residences and other improvements on the Lots.

The ARC may (i) adopt such standards or guidelines as it determines for the construction or alteration of improvements on the Lots in the Properties (the "Builder Guidelines") and for landscaping (the "Landscaping Guidelines"), which guidelines may vary for different portions of the Properties or different platted subdivisions within the Properties, and (ii) establish application and review procedures for plans and specifications. The ARC shall make any adopted Builder Guidelines and Landscaping Guidelines available to Owners and Builders who seek to engage in development of or construction upon a Lot and who shall conduct their operations strictly in accordance therewith. The ARC may establish and charge reasonable fees for its review of plans hereunder. The ARC may elect to include the Builder Guidelines and Landscaping Guidelines in one instrument.

The ARC shall consist of three (3) members. Unless otherwise provided by law, until the date on which it has sold all of its Lots within the Properties, the Declarant shall have the right to appoint all members of the ARC as well as the right to remove any member at any time. There shall be no surrender of this right prior to that time, except by a written instrument executed by Declarant and recorded in the real property records of Montgomery County, Texas. Following the expiration of such right, the Board shall have the right to appoint and remove the members of the ARC. The ARC is authorized, but not obligated, to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the ARC in performing its functions set forth herein.

SECTION 3. APPROVAL OF PLANS. No construction of improvements, or modifications, additions, or alterations to existing improvements, shall be commenced or maintained by or on behalf of any Owner with respect to any Lot in the Properties, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest or servants' quarters, sheds, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface a different color than the one previously approved), unless and until plans and specifications and related data (including, if required by the ARC, a survey showing the location of existing trees of six (6) inches in diameter at a height of four (4) feet above ground and other significant vegetation on such Lot) showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing by

the ARC as to the compliance of such plans and specifications with this Declaration, the Builder Guidelines, and the Landscaping Guidelines, including the harmony of external design, location, and appearance in relation to surrounding structures and topography. The ARC may establish a reasonable fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his improvements, to paint the interior of the improvements on his Lot any color desired, or to repaint or restain the exterior of the improvements on his Lot with the same color which has been previously approved for such improvements. The ARC shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association.

Upon approval of plans and specifications, no further approval under this Article II shall be required with respect thereto, unless such plans and specifications are materially altered or changed. The ARC may disapprove plans and specifications for any reason which is consistent with the objects and purposes of this Declaration as determined by the ARC from time to time, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

SECTION 4. LANDSCAPING APPROVAL. To preserve the aesthetic appearance of the Properties, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed on a Lot in the Properties unless and until the plans therefor have been submitted to and approved in writing by the ARC. In the installation of landscaping and maintenance of his Lot, each Owner shall comply with the Landscaping Guidelines adopted by the ARC from time to time.

SECTION 5. APPROVAL NOT A GUARANTEE OR VARIANCE. The review and approval of plans pursuant to this Article is made on the basis of aesthetic considerations only and no approval of plans and specifications and no publication of the Builder Guidelines and/or the Landscaping Guidelines shall be construed as representing or implying that such plans, specifications, or guidelines will, if followed, result in properly designed improvements. Such approvals and design guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, the ARC, nor any of their respective officers, partners, directors, agents, employees, or members, shall be responsible or liable in damages or otherwise to any person who submits plans for approval by reason of mistake of judgment, negligence or nonfeasance arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. The purpose of such review primarily is to conform the aesthetic appearances of development within the Properties. In addition, the approval of plans pursuant to this Article shall not be deemed to be a variance from the specific restrictions of this Declaration, the Builder Guidelines or the Landscaping Guidelines. All variances must be issued in accordance with the provisions of Section 8 of this Article.

SECTION 6. RIGHT TO INSPECT. Any member of the Board or the ARC and their representatives shall have the right, but not the obligation during reasonable hours to enter upon and inspect any Lot with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In the event the ARC shall determine that such plans and specifications have not been approved or are not being complied with, the ARC shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In addition to any other remedies available to the Association, the Board may record in the appropriate land records a notice of violation naming the violating Owner.



SECTION 7. NO WAIVER OF FUTURE APPROVALS. The approval by the ARC of any plans and specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

SECTION 8. VARIANCES. The ARC may grant variances from compliance with the restrictions of this Declaration and from any of the Builder Guidelines and/or Landscaping Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, or (b) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing, shall not be considered a hardship warranting a variance.

ARTICLE III  
TOWN CREEK CROSSING ASSOCIATION, INC.

SECTION 1. ORGANIZATION. The Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of the maintenance funds, enforcement of the restrictive covenants contained herein, architectural control of the Lots in the Properties, and maintenance of the Common Areas.

SECTION 2. BOARD OF DIRECTORS. The Association shall act through a Board of Directors (the "Board") consisting of a minimum of three (3) and a maximum of five (5) members. The Board shall manage the affairs of the Association as specified in this Declaration and the By-Laws of the Association.

SECTION 3. MEMBERSHIP. Every Owner of a Lot in the Properties shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

SECTION 4. VOTING RIGHTS. The Association shall initially have two (2) classes of membership as follows:

Class A. Class A Members shall be all persons or entities who own a Lot in the Properties with the exception of the Declarant. After the Conversion Date (as hereinafter defined), the Declarant shall become a Class A Member with respect to the Lots it owns.

Class B. The Class B Member shall be the Declarant. The Class B membership shall cease and become converted to Class A membership on the Conversion Date.

Except as may otherwise be provided by law, Class A Members shall be entitled to one (1) vote for each Lot owned within the Properties and the Class B Member shall be entitled to fifteen (15) votes for each Lot owned within the Properties. When two or more persons or entities hold undivided interests in any Lot, all such persons or entities shall be Members, and the vote for the Lot owned by such Members shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot in which such Members own undivided interests.

SECTION 5. NEIGHBORHOODS. Subject to further provisions herein, the Declarant shall have the right to designate and denominate separate Neighborhoods, from time to time. In addition, upon a petition signed by the Owners of the majority of Lots in a Neighborhood, any Neighborhood may apply to the Board to divide the property comprising the Neighborhood into two (2) or more Neighborhoods or upon a petition signed by the Owners of a majority of the Lots in each of two (2) or more Neighborhoods, to combine such Neighborhoods into a single Neighborhood.

SECTION 6. CONVERSION DATE. The Class B Membership in the Association shall terminate on the date (the "Conversion Date") which is the earlier of:

- i. The date the total number of votes of the Class A Members equals the number of votes of the Class B Member; or
- ii. December 31, 2041 or such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Official Public Records of Real Property of Montgomery County, Texas.

In the event the Class B membership terminates pursuant to clause (i) above and thereafter additional property is annexed into the jurisdiction of the Association which results in the Declarant owning more than twenty-five percent (25%) of the Lots in the Properties, the Class B membership shall be restored until it again terminates as specified above.

SECTION 7. TERMINATION OF MEMBERSHIP. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, for each Lot within the Properties, hereby covenants and each Owner of any Lot within the Properties, by acceptance of a deed therefor, whether or not it shall be expressed in the deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association (i) annual assessments or charges, (ii) special assessments for capital improvements, such assessments or charges to be fixed, established and collected as hereinafter provided, and (iii) Neighborhood Assessments, as applicable. These assessments and charges, together with interest thereon as hereinafter provided, late charges, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the property against which such assessments or charges are made. Each such assessment or charge, together with such interest, late charges, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title of such property. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them. However, successors in title shall nonetheless acquire title to the land subject to the lien securing the assessments and charges.

SECTION 2. PURPOSE OF ANNUAL ASSESSMENTS. The annual assessments levied by the Association shall be used for carrying out the purposes of the Association as stated in its Certificate of Formation, this Declaration and all other dedicatory instruments administered by the Association. The

judgment of the Board of the Association in determining the functions to be performed by the Association, in determining the amount of annual assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith. Such funds may be used, without limitation, to pay costs incurred with respect to all or any of the following:

- i. Operation, maintenance, repair, and improvement of the Common Area as well as fences, entryways, road esplanades, cul-de-sacs and easement areas within, adjacent to or in the vicinity of the Properties;
- ii. Payment of taxes and premiums for insurance coverage in connection with the Common Area and for directors and officers liability insurance;
- iii. Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees required for management and supervision of the Common Area;
- iv. Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;
- v. Maintaining or replacing any landscaping in the Common Area;
- vi. Designing, purchasing, installing, and/or maintaining any applicable lakes and fountains as well as any improvements to the Common Area;
- vii. Mowing and routine maintenance of the Common Area;
- viii. Removing debris from the Common Area;
- ix. Contracting for street lights in the Properties;
- x. Collecting and disposing of trash, garbage, ashes, rubbish and other similar materials;
- xi. Payment of legal fees and expenses incurred to collect assessments and enforce this Declaration;
- xii. Employing policemen or watchmen and/or a security service;
- xiii. Contracting for insect and pest control such as mosquito fogging;
- xiv. Carrying out the duties of the Board of Directors of the Association;
- xv. Creation and funding of such reserve funds as the Board of Directors of the Association deems necessary; and
- xvi. Carrying out such purposes of the Association as generally benefit the Members of the Association.

As stated hereinabove, the Association shall not be obligated to perform all of the foregoing functions or any particular function. The judgment of the Board of the Association in establishing annual assessments and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENT. The annual assessment by the Association for 2021, the initial year of assessment, shall be \$650.00 per Lot. The annual assessment in any year may be increased by the Board of the Association, at its sole discretion, by an amount equal up to a fifteen percent (15%) increase over the assessment for the previous year without a vote of the Members of the Association. The annual assessment in any year may be increased above fifteen percent (15%) of the annual assessment for the previous year only with the approval by a two-thirds (2/3rds) vote of each class of the Members who are voting at a meeting duly called for this purpose pursuant to Section 6 of this Article IV. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

SECTION 4. NEIGHBORHOOD ASSESSMENTS. Neighborhood Assessments shall be levied against the Lots in a particular Neighborhood or Neighborhoods to enable the Association to pay the Neighborhood Expenses which benefit only that Neighborhood or Neighborhoods; provided, however there shall be no Neighborhood Assessments on Lots owned by the Declarant. Neighborhood Expenses may include, without limitation, costs incurred for maintenance and repair of the following items and provision of the following services within a particular Neighborhood or Neighborhoods: private streets, trash and garbage door pick-up service as opposed to curb side service, mailboxes, and operation and maintenance of landscaping, fencing, gates, fountains, lighting and signs and monuments within the particular Neighborhood or Neighborhoods. Unless otherwise mandated by the Board, the Neighborhood Assessment applicable to a particular Neighborhood or Neighborhoods shall be the budgeted Neighborhood Expenses (including a reserve fund contribution, as may be applicable) divided by the number of Lots in such Neighborhood or Neighborhoods (exclusive of the Lots owned by the Declarant), and each Owner of a Lot (other than Declarant) contained within the applicable Neighborhood or Neighborhoods shall be assessed the same amount.

SECTION 5. SPECIAL ASSESSMENTS FOR IMPROVEMENTS AND CAPITALIZATION FEE. In addition to the annual assessments authorized above, the Association may levy, in any year, a special assessment against the Lots applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of improvements located upon the Common Area, including fixtures and personal property related thereto; provided, however, any special assessment must be approved by a two-thirds (2/3rds) vote of each class of the Members who are voting at a meeting duly called for this purpose pursuant to Section 6 of this Article IV. The Board may establish reasonable due dates for any such special assessments.

In addition to paying any other fees, costs, and assessments due pursuant to this Declaration, each Owner of a Lot (other than Declarant or any mortgagee), hereby covenants and agrees to pay (or cause to be paid) a capitalization fee (the "Capitalization Fee") to the Association (or its designee) at the time of transfer of title to a Lot to such Owner (other than Declarant or any mortgagee). The amount of the Capitalization Fee shall be set by the Board at a level not to exceed the then current annual assessment and may be adjusted by the Board, from time to time, in its discretion. The payment of the Capitalization Fee, together with collection costs and attorneys' fees, shall be secured by the lien set forth in this Declaration and the Capitalization Fee shall be collected in the same manner as regular assessments. The Capitalization Fee may be used by the Association for any purpose which, in the Board's sole discretion, benefits the Properties (including the placement of the Capitalization Fee in a reserve fund).

SECTION 6. NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 5 above shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast ten percent (10%) of the votes of the Association's membership shall constitute a quorum. If the required quorum is not present or represented, another

meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 7. RATES OF ASSESSMENT. Both annual and special assessments on all Lots shall be fixed at uniform rates and all Lots in the Properties shall commence to bear their assessment simultaneously (subject to provisions relating to the Declarant, as stated below). The assessment for an individual Lot, within a calendar year, shall change as the ownership of such Lot passes from the Declarant or Builder, and the assessment for such Lot shall be prorated according to the applicable rate during each type of ownership. There shall also be no assessments on any portion of the Properties which has not been platted into Lots.

As long as Declarant is a Class B Member, Declarant shall pay the deficiency resulting in the event the expenses of the Association (including appropriate contributions to a reserve fund) exceed the assessments received by the non-Declarant Owners; provided, however, Declarant shall not otherwise be required to pay any assessment with respect to portions of the Properties owned by Declarant, and further provided, in no event shall Declarant be required to pay an amount which is in excess of 100% of the established assessment for each Lot it owns. When the Declarant is converted to a Class A Member, the Declarant shall no longer be responsible for contributing shortfalls outlined in the preceding sentence, but rather, shall commence making regular annual and special assessments on the number of Lots Declarant then owns.

SECTION 8. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT. The annual assessment provided for herein shall commence as to all Lots in the Properties on the date of the recordation of a plat of the Properties (or applicable portion thereof) or on such other date as the Board determines. The assessment for such year shall be prorated for the remainder of the calendar year and shall be due and payable thirty (30) days after notice of the assessment is sent to every Owner whose Lot is subject to assessment. On or before the 30th day of November in each year, the Board of the Association shall (i) fix the amount of the annual assessment to be levied against each Lot in the next calendar year and (ii) provide written notice of the figure to every Owner whose Lot is subject to the payment thereof. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer or authorized representative of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS AND REMEDIES. Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest at the rate of eighteen percent (18%) per annum or such lesser rate as is not in excess of the maximum lawful rate of interest until the date paid. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or to foreclose the lien herein retained against the property. Interest as above specified, late fees, costs of collection, and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge.

The lien in favor of the Association is created by the recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. Although no further action is required to create or perfect the lien, the Association may, as further evidence, give notice of the lien by executing and recording a document setting forth notice that delinquent sums are due the Association at the time such document is executed and the fact that a lien

exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. By acquiring a Lot, an Owner grants to the Association a power of sale in connection with the Association's lien. By written resolution, the Board of the Association may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association.

If required by law, the Association shall also give notice and an opportunity to cure the delinquency to any holder of a lien that is inferior or subordinate to the Association's lien, pursuant to Section 209.0091 of the Texas Property Code, or its successor statute.

In the event the Association has determined to foreclose its lien provided herein, and to exercise the power of sale hereby granted, such foreclosure shall be accomplished pursuant to the requirements of Section 209.0092 of the Texas Property Code, as applicable, by first obtaining a court order in an application for expedited foreclosure under the applicable adopted rules. Notwithstanding anything contained herein to the contrary, in the event that the laws of the State of Texas are changed to no longer require a court order in an application for expedited foreclosure, the Association may pursue foreclosure of its lien via any applicable method allowed by law, including, but not limited to, nonjudicial foreclosure, as may be permitted by the then-current law, without the necessity of amending this Declaration. Foreclosure of a tax lien attaching against a Lot under Chapter 32, Tax Code, shall not discharge the Association's lien under this paragraph for amounts becoming due to the Association after the date of foreclosure of the tax lien. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Area or abandonment of his Lot.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES. As herein above provided, the title to each Lot shall be subject to a lien securing the payment of all assessments and charges due the Association, but the lien shall be subordinate to the lien of any purchase money mortgage. Sale or transfer of any Lot shall not affect the lien in favor of the Association provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof.

SECTION 11. EXEMPT PROPERTY. All properties dedicated to, and accepted by, a local public authority shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges.

## ARTICLE V COMMON AREA

SECTION 1. OWNER'S RIGHT OF ENJOYMENT. Subject to the provisions herein stated, every Member shall have a right of enjoyment in the Common Area, and such right shall be appurtenant to and shall pass with the title to every Lot, subject the following rights of the Association:

- (a) The Association shall have the right to charge reasonable admission and other fees for the use of any facility situated upon the Common Area.
- (b) The Association shall have the right, with the approval by the Owners of two-thirds (2/3rds) of the Lots within the Properties, to borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.

- (c) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Area against foreclosure of any such mortgage.
- (d) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Area, and to suspend the enjoyment rights of any Member to the extent not otherwise prohibited by applicable law.
- (e) The Association shall have the right, with the approval by the Owners of two-thirds (2/3rds) of the Lots within the Properties, to sell or convey all or any part of the Common Area and the right, without the approval of the Members, to grant or dedicate easements in portions of the Common Area to public or private utility companies.
- (f) The Association shall have the right to enter into agreements pursuant to which individuals who are not Members of the Association are granted the right to use the Common Area and the facilities located thereupon.

SECTION 2. DELEGATION OF USE. Each Member shall have the right to extend his right of enjoyment to the Common Area to the members of his family and to such other persons as may be permitted by the Association. An Owner who has leased the residence on his or her Lot shall be deemed to have assigned the right to use the Common Area to the tenant.

SECTION 3. INSURANCE. The Board may, as an expense of all Members payable from annual assessments, obtain any and all insurance policies it determines are necessary for the Association covering: (i) directors' and officers' liability, (ii) commercial general liability, (iii) property coverage for the assets of the Association, (iv) automobile coverage, (v) worker's compensation, (vi) crime insurance (including third party fraud), and (vii) excess liability coverage.

SECTION 4. DAMAGE AND DESTRUCTION. Immediately after damage or destruction by fire or other casualty of all or any part of the property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and the repair or reconstruction of the damaged or destroyed property, to the extent insurance proceeds are available for such purpose. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition which existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. If insurance proceeds are insufficient to cover a repair or reconstruction, the Board may levy a special assessment to cover the shortfall, subject to the requirements of Section 5 of Article IV above. In the event that insurance proceeds are unavailable to repair or reconstruct the Common Area, the damaged or destroyed property shall be restored to its natural state.

SECTION 5. ANNUAL REVIEW OF POLICIES. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

## ARTICLE VI USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot in the Properties is hereby restricted to one (1) single family residence and use for single-family residential purposes exclusively; provided, however, related outbuildings and/or sheds shall be permitted, but only on a case-by-case basis as may be approved by the ARC. No mobile homes shall be permitted on any Lot. No business may be conducted in

or from any Lot, except that an Owner or occupant may conduct business activities within the single family residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (c) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. The Board is authorized to promulgate rules and regulations to insure that home businesses comply with the above standards and to make factual determinations regarding the impact of a home business on the residential character of the Properties. If, in the judgment of the Board, a home business has a detrimental impact on the residential quality of the Properties or otherwise constitutes a nuisance, it is authorized to require that the Owner cease the home business or alter it to the Board's satisfaction. Notwithstanding anything contained in this Section, the Association may sponsor a community wide garage sale or rummage sale at such location or locations as the Board deems appropriate from time to time. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a single family residence shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or by a Builder with the approval of the Declarant, with respect to the development and sale of the Lots and single family residences in the Properties.

An Owner shall be permitted to lease a residence so long as (i) the lease term is a minimum of six (6) months (unless expressly prohibited by applicable law) and (ii) the occupants are leasing the entire land and improvements comprising the residence. The term "lease" and "leasing" (and variations thereof) for purposes of this Declaration shall mean the occupancy of a residence by any person other than the Owner, for which the Owner receives and consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. No fraction or portion of a residence may be leased or rented. All leases must be in writing and shall contain such terms as the Board may prescribe from time to time. All leases shall provide that they may be terminated in the event of a violation of the Declaration (or any dedicatory instruments) by the occupant, and the Board, in its sole discretion, may require termination by the Owner and eviction of the occupant in such event. Rental or lease of a Lot and residence shall not relieve the Owner from compliance with this Declaration (or the dedicatory instruments). No residence may be occupied by more than one single family; provided, however, it is not the intent to exclude from any residence any individual who is authorized to so remain by any state or federal law. If it is found that this provision is in violation of any law, then this provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

SECTION 2. ANIMALS AND LIVESTOCK. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of a maximum of two (2) dogs, cats or other usual and common household pets (excluding in such maximum number, fish and birds); provided, however, those pets which are permitted to roam free, or which in the sole discretion of the Board, endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or occupants within the Properties may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a single family residence be on a leash or otherwise confined in a manner acceptable to the Board. Without prejudice to the Board's right to remove any such household pet, the owner of a pet that has caused damage to property shall be responsible for compensating the owner of the damaged property, but



the Association shall have no obligation to enforce such obligation. Animal control authorities shall be permitted to enter the Properties to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law.

SECTION 3. NUISANCES. No noxious or offensive trade or activity shall be carried on within the Properties nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Properties.

SECTION 4. STORAGE AND REPAIR OF VEHICLES. The term "vehicles", as used herein, shall refer to all motorized vehicles including, without limitation, automobiles, trucks, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, campers, buses, and vans. No vehicle may be parked overnight within a Street, it being agreed that vehicles may only be parked overnight in a garage and/or driveway. Any vehicle parked not accordance with this section shall be considered a nuisance. No motorized vehicles shall be permitted on pathways or unpaved Common Area except for public safety vehicles and vehicles authorized by the Board. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform repair work on automobiles or other vehicles in driveways or Streets.

SECTION 5. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, after the initial construction of residences by the Builders, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M. and 6:00 P.M. on weekdays (Monday through Friday) and between 8:00 A.M. and 4:00 P.M. on weekends (Saturday and Sunday).

SECTION 6. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and kept inside the garage or in an area adequately screened from public view by ARC-approved planting or ARC-approved fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

SECTION 7. DISPOSAL OF HAZARDOUS SUBSTANCES. No gasoline, motor oil, paint, paint thinner, pesticide, or other product considered to be a contaminant or a hazardous substance under applicable federal or state laws and regulations shall be disposed of on any Lot nor shall any such material be deposited into a storm sewer, sanitary sewer manhole, drainage channel or detention pond within the Properties, but rather all such materials shall be handled and disposed of in compliance with all applicable laws and regulations and the recommendations of the manufacturer of the applicable product or a governmental entity with jurisdiction.

SECTION 8. BUILDING MATERIALS. Unless otherwise approved by the applicable Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. During initial construction of residences by Builders in the Properties, building materials may be placed or stored within the property lines. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time

these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the Streets.

SECTION 9. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

SECTION 10. RIGHTS OF DECLARANT. Notwithstanding any provisions contained in this Declaration to the contrary, until the Builder(s) have sold all of the residences and Lots within the Properties, it shall be expressly permissible for Declarant and any other Builders approved by Declarant to maintain and carry on, upon such portion of the Properties as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such Builder's development, construction, and sales activities related to their properties, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Properties; the right to carry on sales and promotional activities in the Properties; the right to place signs in the Common Area and in road rights-of-way within the Properties; and the right to construct and operate business offices, model residences and sales offices.

## ARTICLE VII ARCHITECTURAL RESTRICTIONS

SECTION 1. TYPE OF RESIDENCE. Only one detached single family residence not more than two (2) stories in height shall be built or permitted on each Lot. A minimum of seventy percent (70%) of the front elevation of the residence on each Lot (and an overall minimum of seventy percent (70%) of the total exterior wall area of the residence on each Lot), exclusive of doors and windows, shall be masonry. The term "masonry" as used herein does not include cementitious or wood siding. Siding may only be utilized on front elevations as accents or in areas of the front elevation where the structural integrity of a building could be compromised by the use of masonry products. All structures shall be of new construction and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

The minimum square feet of living area of each single family residence, exclusive of open porches and garages, may be established by the Board in the Builder Guidelines; provided, however, unless established otherwise by the Board, each single family residence shall have a minimum of 1,600 square feet of living area exclusive of open porches and garages

SECTION 2. LOCATION OF RESIDENCE ON LOT. No residence or garage on a Lot shall be located on any Lot nearer to a Street than the minimum building setback lines shown on the plat containing such Lot and no building shall be located on any utility easement. Unless otherwise approved by the ARC, no building shall be located nearer than twenty-five (25) feet from the front lot line or nearer than five (5) feet to an interior lot line, except a detached garage or other permitted accessory building located sixty (60) feet or more from the front lot line may be located within three (3) feet of an interior lot line. Unless otherwise approved by the ARC, no residence, garage or other permitted accessory building shall be located nearer than ten (10) feet from the rear lot line. For the purposes of this section, roof overhangs, steps, patios and driveways shall not be considered as a part of a building. If approved by the ARC, any accessory building located upon a Lot shall be no larger than one hundred square feet (100 sq. ft.) and shall be no more than eight feet (8') in height.

SECTION 3. TEMPORARY BUILDINGS. Temporary buildings or structures shall not be permitted on any Lot. However, the Declarant may permit temporary toilet facilities, sales and

construction offices and storage areas to be used by Builders in connection with the construction and sale of residences. With the Declarant's approval, Builders may use garages as sales offices for the time during which such Builders are marketing homes. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must be reconverted to a garage or a garage must be added to such residence.

SECTION 4. GARAGES. Each residence shall have a garage for a minimum of two (2) automobiles. The Builder shall construct and the Owner shall maintain at his expense the driveway from the Street to the garage on the Lot and the Builder shall repair at his expense any damage to the Street occasioned by connecting the driveway thereto.

SECTION 5. ROOF MATERIAL/ROOF STACKS. The roofs of all buildings shall be constructed or covered with dimensional, laminated composition shingles of a weathered wood color or other color approved by the Architectural Review Committee with a minimum 30 year manufacturer's warranty. Any other type of roofing material shall be permitted only at the discretion of the Architectural Review Committee. Unless otherwise approved by the Architectural Review Committee, all roof stacks must be painted to match the roof color.

SECTION 6. MAILBOXES. Cluster-type mailboxes shall be required in the Properties and unless mandated otherwise by the Association (or except as required otherwise by the United States Postal Service) no Lot shall have a stand-alone mailbox.

SECTION 7. LANDSCAPING AND FENCING. All landscaping shall be as prescribed in the Builder Guidelines and/or the Landscaping Guidelines and shall, unless required otherwise by the ARC, include underground irrigation in the front yard and back yard and a minimum of one 4-inch (4") caliper tree (or larger) in the front yard. Upon installation of landscaping, the Owner of each Lot shall keep his Lot mowed to prevent unsightly appearance. Dead or damaged trees, which might create a hazard to property or persons, shall be promptly removed or repaired, and if not removed by the Owner upon request, then the Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damage caused by such removal. When a tree is removed a new tree has to be planted in its place. Vacant Lots shall not be used as dumping grounds for rubbish, trash, rubble, or soil, except that the Declarant may designate fill areas into which materials specified by Declarant may be placed.

Unless prescribed otherwise in the Builder Guidelines and/or Landscaping Guidelines, all fencing on a Lot shall be a maximum of seven feet (7') in height and must include a four inch (4") rot board (with all plans and staining to be approved by the ARC pursuant to Article II, Section 3 hereof).

SECTION 8. SIGNS. Unless expressly provided otherwise by applicable law, no sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any single family residence, fence or other improvement upon such Lot so as to be visible from public view except the following:

(a) **For Sale Signs.** An Owner may erect one (1) sign on his Lot, not exceeding 2' x 3' in area, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of such Lot advertising the property for sale.

(b) **Declarant's Signs.** Declarant may erect and maintain a sign or signs deemed reasonable and necessary for the construction, development, operation, promotion, leasing and sale of the Lots.

(c) **Builders' Signs.** Any Builder may utilize one professional sign (of not more than five (5) square feet in size) per Lot for advertising and sales promotion of the residence on such Lot.

(d) **Political Signs.** Pursuant to Texas Property Code §202.009, or its successor statute, political signs are approved as temporary signage on Lots for all local, state, or federal election purposes, provided they meet the following criteria:

(i) Maximum sign size cannot exceed 4-feet by 6-feet,

(ii) Signs must be ground-mounted. No sign can be mounted on any exterior part of the dwelling, garage, patio, fence or wall.

(iii) Signs must be posted not more than 90 days prior to the election and must be removed within 10 days after the election.

(iv) Signs may not contain roofing material, siding, paving materials, flora, one more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component.

(v) No sign can 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.

(vi) No sign may involve the painting of architectural surfaces.

(vii) No sign may threaten the public health or safety or violate any law.

(viii) No sign may contain language, graphics, or any display that would be offensive to the ordinary person.

(ix) No sign may be accompanied by music or other sounds or be streamers or is otherwise distracting to motorists.

(x) Political signs are prohibited on any Common Area or facilities owned by the Association, including any public or private street right-of-way or utility easements.

(xi) Only one sign per candidate or ballot item shall be allowed.

(e) **School Spirit Signs.** Signs containing information about one or more children residing in the single family residence and the school they attend shall be permitted so long as the sign is not more than 36" x 36". There shall be no more than one sign for each child under the age of eighteen (18), residing in the single family residence. Banners are not permitted.

(f) **Security Signs/Stickers.** Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the single family residences shall be permitted so long as the sign is not more than 12" x 12" or the sticker is no more than 4" x 4". There shall be no more than one sign per Lot and stickers on no more than fifty percent (50%) of the windows and one on the front door or front entry area.

Except as may be expressly provided otherwise herein, no sign permitted by this Section shall be lighted. In addition to any other remedies provided for in this Declaration, the Board of Directors or its duly authorized agent shall have the power to enter upon a Lot to remove any sign which violates this Section provided the violating Owner has been given forty-eight (48) hours written notice by the Board of Directors of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of Assessments.

SECTION 9. TRAFFIC SIGHT AREAS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the Street shall be permitted to remain on any corner Lot within fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

SECTION 10. EXTERIOR ANTENNAE. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by the regulations promulgated under the Telecommunications Act of 1996, as amended from time to time. The Board is empowered to adopt rules governing the types of antennae that are permissible in the Properties and to establish reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that receipt of an acceptable signal would not be impaired, an antenna permissible pursuant to the rules of the Board may only be installed in a side or rear yard location, not visible from a Street, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations.

SECTION 11. PLAYGROUND AND SPORTS EQUIPMENT. All playground equipment such as play houses, trampolines and swing sets shall be situated, concealed and shielded so as not to be visible from any front Street and no such playground equipment shall exceed 12-feet in height. Portable basketball goals shall be located behind the front property line at all times and shall be maintained in a "like new" condition. No permanently mounted basketball goals shall be permitted. Any netting on a basketball goal shall likewise be maintained in a "like new" condition and shall be promptly replaced if torn or tattered. Any netting shall be black or white only. Trampoline padding and netting must be covered in black pole foam. When not in use, portable basketball goals shall be stored either behind fencing or in the garage.

SECTION 12. DECORATIONS AND LIGHTING. No decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or on any other portion of a Lot which is visible from any Street, unless such specific items have been approved in writing by the Architectural Review Committee. Customary seasonal decorations for holidays (including lighted signs) are permitted without approval by the Architectural Review Committee but shall be removed within thirty (30) days of the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding residences or yards. No mercury vapor, sodium or halogen light shall be installed on any Lot which is visible from any Street unless otherwise approved by the Architectural Review Committee.

SECTION 13. AIR CONDITIONERS. No window or wall type air conditioners shall be permitted in any improvements within the Properties, but the Declarant and Builders may install and use such air conditioners in sales offices and construction offices within the Properties, provided such air conditioners are removed when such facilities cease to be used.

SECTION 14. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are installed on a Lot by an Owner to serve the residence thereon shall be installed underground unless otherwise approved in writing by the Architectural Review Committee.

SECTION 15. ENFORCEMENT OF LOT MAINTENANCE. Each Owner of a Lot shall at all times be obligated to maintain his property and all improvements thereupon (and the area between the property and adjacent Streets (including sidewalks) to the extent no maintained by a third party), so as to keep same in a clean, sightly and safe condition and to conform with any specific standards which the Board of Directors may adopt by resolution for the Properties. An Owner's maintenance obligation shall include, but not be limited to: the maintenance of all visible exterior surfaces of all buildings and other improvements; the prompt removal of all paper, debris, and refuse; the removal and replacement of dead and diseased trees and plantings; the removal of all snow and ice from paved areas; the repair, replacement, cleaning and relamping of all lighting fixtures; the mowing, watering, fertilizing, weeding, replanting and replacing of all approved landscaping; and, during construction, the cleaning of dirt, construction debris and other construction-related refuse from Streets and storm drains and inlets.

In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after five (5) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with these restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work plus a reasonable administrative fee. The Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Association, or its agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

SECTION 16. DAMAGE AND DESTRUCTION OF IMPROVEMENTS. Any buildings or improvements within the Properties which are damaged or partially destroyed by fire, storm or any other means shall be repaired within a reasonable period of time after the occurrence of such damage and the Lot restored to a clean, orderly and attractive condition. Any buildings or improvements which are damaged or destroyed to the extent that repairs are not practicable, shall be demolished and removed within a reasonable period of time not to exceed ninety (90) days from the occurrence of such damage and the Lot restored to a clean and attractive condition.

SECTION 17. COMPLIANCE WITH LAWS. In connection with all construction activities (or any other activities) upon a Lot, the Owner of such Lot shall observe and comply with all applicable safety codes, laws, statutes, regulations, and ordinances, including, without limitation, any and all laws relating to maintaining safe clearances from all electric distribution facilities, natural gas facilities, communication facilities, and all other utility infrastructure. Without limiting the foregoing, each Owner shall comply with O.S.H.A, Chapter 752 of the Texas Health and Safety Code, the National Electric Code, and the National Electrical Safety Code, to the extent applicable. Each Owner shall be responsible for ensuring that its agents, employees, representatives, and contractors comply with the requirements contained herein and neither Declarant, nor Declarant's agents, employees, representative, or contractors shall have any liability or be responsible in any way in the event an Owner (or such Owner's agents, employees, representatives, or contractors) fails to comply with the provisions hereof.

ARTICLE VIII  
EASEMENTS

SECTION 1. GENERAL. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the plats or as dedicated by separate instruments. No utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

SECTION 2. EASEMENTS FOR ASSOCIATION. There is hereby granted a general right and easement to the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours.

SECTION 3. MAINTENANCE EASEMENT. There is granted to the Association, its successors and assigns, a five-foot wide construction and maintenance easement adjacent and parallel to each of the rear and side lot lines of all Lots that abut a landscape reserve, perimeter boundary of the Properties or Street where the Declarant has constructed or intends to construct a fence or wall, together with the right of ingress and egress for the purposes, without liability to the Owner for damages arising from the use of the easement, of constructing, repairing, and/or reconstructing the fence or wall. The easement area shall remain unobstructed of any structures or plantings that would prohibit access to the fence or wall for construction and maintenance purposes.

ARTICLE IX  
ENFORCEMENT

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions, restrictions, and liens contained herein. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE X  
GENERAL PROVISIONS

SECTION 1. TERM. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under until December 31, 2051, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of two-thirds (2/3rds) of the Lots covered by this Declaration has been recorded, agreeing to change or terminate the covenants herein, in whole or in part.

SECTION 2. AMENDMENT.

A. By Declarant. This Declaration may be amended unilaterally at any time and from time to time by the Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase

mortgage loans on the property subject to this Declaration; (c) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; or (d) for any other purpose, provided that the amendment has no material adverse effect upon any right of any Owner or that the Owner or Owners so affected have consented thereto.

B. By Owners. This Declaration may be amended at any time by an instrument approved by the Owners of a majority of the Lots covered by this Declaration and the Declarant, as long as there is a Class B membership in the Association. Any such amendment shall become effective when an instrument is filed for record in the Official Public Records of Real Property of Montgomery County, Texas, with the signatures of the requisite number of the Owners of the Lots and the Declarant, if applicable.

SECTION 3. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no way affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 4. GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 5. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 6. REPLATTING. The Declarant shall have the right to subdivide any reserve tracts contained within the Properties into single family residential lots, by recorded plat or in any lawful manner. Lots created by the subdivision of a reserve tract shall be subject to these restrictions as if such Lots were originally platted as lots.

SECTION 7. ANNEXATION.

A. By Declarant. The Declarant shall have the unilateral right, privilege, and option at any time to annex additional property to the jurisdiction of the Association by filing for record a declaration of annexation in respect to the property being annexed which subjects such property to all of the provisions of this Declaration. Any such annexation by the Declarant shall not require approval by the Association or the Members and shall be effective upon the filing for record of such declaration. The rights reserved by Declarant herein to annex additional land shall not and shall not be implied or construed so as to impose any obligation upon a Declarant to annex additional land it owns.

B. By Other Owners. Upon request by an owner of land other than the Declarant, the Association may annex real property to its jurisdiction. Any such annexation shall require the affirmative vote of Members representing two-thirds (2/3rds) of the Association's votes present at a meeting duly called for such purpose and, as long as the Declarant owns any portion of the Properties, the written consent of such Declarant. Annexation of land not owned by a Declarant shall be accomplished by filing of record in the public records of Montgomery County, Texas, an annexation agreement describing the property being annexed. Such annexation agreement shall be signed by the President and the Secretary of the Association, by the owner of the property being annexed, and, as long as a Declarant owns any portion of the Properties, by the Declarant.



C. Effect of Annexation. The Owners of Lots in property annexed into the jurisdiction of the Association shall be entitled to the use and benefit of all Common Area of the Association, provided that the annexed property shall be impressed with and subject to an annual assessment (and all other assessments and fees) imposed by the Association on a uniform, per Lot basis with the annual assessment on all other property within the jurisdiction of the Association.

SECTION 8. MERGER; DISSOLUTION. The Association may be merged with another non-profit corporation or dissolved only with (i) the assent given in writing by not less than two-thirds (2/3's) of the Class A Members and (ii) the Declarant, as long as it owns any Lots within the Properties. In the event of a merger of the Association with another non-profit corporation organized for the same purposes, the Association's properties, rights, and obligations may be transferred to the surviving association, or alternatively, the properties, rights and obligations of the other association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving association shall administer the covenants, conditions and restrictions established by this Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. In the event of the dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

SECTION 9. ADDITIONAL REQUIREMENTS. Notwithstanding anything herein to the contrary, in the event any applicable governmental and/or quasi-governmental entity with jurisdiction over the Properties has imposed more stringent requirements and/or additional requirements than those contained herein, each Owner shall be required to comply with such more stringent and/or additional requirements.

[Remainder of page intentionally blank]

EXECUTED this 15 day of October, 2021.

**DECLARANT:**

TOWN CREEK CROSSING LLC,  
a Texas limited liability company

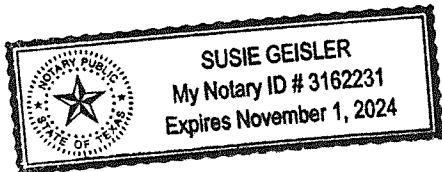
By: [Signature]  
Name: Philip Lefevre  
Title: MANAGER

THE STATE OF TEXAS           §  
  §  
COUNTY OF MONTGOMERY   §

This instrument was acknowledged before me this 15 day of Oct., 2021 by Philip Lefevre, Manager of Town Creek Crossing LLC, a Texas limited liability company, on behalf of said entity.

[Seal]

[Signature]  
Notary Public—State of Texas



**LIENHOLDER CONSENT**

The undersigned as owner and holder of that certain lien as evidenced pursuant to the Deed of Trust and Security Agreement dated November 5, 2020 granted by Town Creek Crossing LLC in favor of John M. Bonner, Trustee and recorded under Montgomery County Clerk's File No. 2020128197 hereby consents to instrument to which this Lienholder Consent is attached and subordinates the above-referenced lien(s) (and all other liens it may have against the property) to the instrument to which this Lienholder Consent is attached.

EXECUTED effective the 13<sup>th</sup> day of October, 2021.

FC-V FINANCIAL, L.P.,  
a Delaware limited partnership

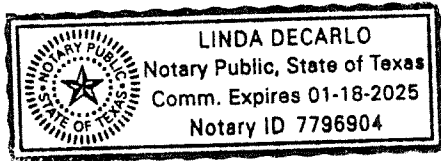
By: FC-V MGMT LLC,  
its general partner

By: Kathy Willis  
Name: Kathy Willis  
Title: Vice President

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me the 13 day of October, 2021 by Kathy Willis, Vice President of FC-V MGMT LLC, which is the general partner of FC-V Financial, L.P., a Delaware limited partnership, on behalf of said limited partnership.

[Seal]



Linda Decarlo  
Notary Public-State of Texas

**LIENHOLDER CONSENT**

The undersigned as owner and holder of that certain lien as evidenced pursuant to the Deed of Trust, Security Agreement and Financing Statement dated November 5, 2020 granted by Town Creek Crossing LLC in favor of John C. Rose, Trustee and recorded under Montgomery County Clerk's File No. 2020128418 hereby consents to instrument to which this Lienholder Consent is attached and subordinates the above-referenced lien(s) (and all other liens it may have against the property) to the instrument to which this Lienholder Consent is attached.

EXECUTED effective the 11 day of October, 2021.

K. HOVNANIAN OF HOUSTON II, LLC,  
a Texas limited liability company

By: *M. Hughes*  
Name: MIKE HUGHES  
Title: AREA PRESIDENT

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me the 11<sup>TH</sup> day of OCTOBER, 2021  
by MIKE HUGHES, AREA PRESIDENT of K.  
Hovnanian of Houston II, LLC, a Texas limited liability company, on behalf of said entity.

[Seal]

*Tammy K. Wursthorn*  
Notary Public-State of Texas

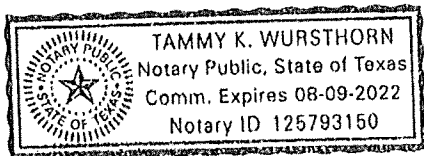




EXHIBIT "A"

**TOWN CREEK CROSSING, SECTION 1, a subdivision of 89.743 acres of land in the John Corner Survey, A-8, Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Z, Sheets 7645-7649 of the Map Records of Montgomery County, Texas.**

**E-FILED FOR RECORD**

10/19/2021 02:12PM



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was e-filed in the file number sequence on the date and time stamped herein by me and was duly e-RECORDED in the Official Public Records of Montgomery County, Texas.

**10/19/2021**



County Clerk  
Montgomery County, Texas