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DECLARATION

OF

PROTECTIVE COVENANTS

FOR

PARKWAY AT ELDRIDGE, SECTION ONE

(1)

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DECLARATION OF PROTECTIVE COVENANTS

FOR

PARKWAY AT ELDRIDGE, SECTION ONE (1)

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STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS DECLARATION OF PROTECTIVE COVENANTS FOR PARKWAY AT ELDRIDGE, SECTION ONE (1) (this "Declaration") is made this 31st day of January 2014, by SUEBA 350 LP, a Texas limited partnership (the "Declarant"). Declarant is the sole owner of the Residential Properties. Declarant intends by this Declaration to impose upon the Residential Properties mutually beneficial restrictions under a general plan of improvement for the benefit of owners of land within the Residential Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Residential Properties, and to establish a method for the administration, maintenance, preservation, use, and enjoyment of the Residential Properties.

Declarant hereby declares that all of the Residential Properties shall be held, sold and conveyed subject to the following easements, restrictions, liens, covenants and conditions which are for the purpose of protecting the value and desirability of the Residential Properties.

NOW THEREFORE, the Declarant hereby declares that all of the property described in EXHIBIT "A" and any additional property which has been subjected to the Original Declaration or is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

This Declaration does not and is not intended to create a condominium within the meaning of the Texas Uniform Condominium Act, Tex. Prop. Code Ann. §82.001-82.164 (Vernon 1995).

ARTICLE I

Definitions

Section 1. "Area of Common Responsibility." shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants, or by contract or agreement

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with any Neighborhood, become the responsibility of the Residential Association. The office of any property manager employed by or contracting with the Residential Association, if located on the Residential Properties, or any public rights-of-way within or adjacent to the Residential Properties, may be part of the Area of Common Responsibility.

Section 2. "Base Assessment" shall mean and refer to assessments levied against all Units in the Residential Properties to fund Common Expenses.

Section 3. "Board of Directors" or "Board" shall be the elected body having its normal meaning under Texas corporate laws.

Section 4. "By-Laws" shall mean and refer to the By-Laws of Homeowners Association of Parkway at Eldridge.

Section 5. "Certificate of Formation" or "Certificate" shall mean and refer to the Certificate of Formation of Homeowners Association of Parkway at Eldridge, as filed with the Secretary of State of the State of Texas.

Section 6. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article III (A), Section 2 of the By-Laws.

Section 7. "Common Area" shall be an inclusive term referring to both General Common Area and Exclusive Common Area, as defined herein and such other real and personal property designated as Common Area by the Declarant, in its sole discretion.

Section 8. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Residential Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Certificate of Formation of the Residential Association, but shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction or installation of infrastructure, original capital improvements, or other original construction costs unless approved by the Board of Directors.

Section 9. "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing throughout the Residential Properties. Such standard may be more specifically determined by the Board of Directors and the New Construction Committee.

Section 10. "Declarant" shall mean and refer to Sueba 350 LP, a Texas limited partnership or its successors or assigns who take title to any portion of the property described on EXHIBIT "A" hereof or other real property in the vicinity of the Residential Properties for the

purpose of development and/or sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Section 11. "**Development Period**" shall mean and refer to the period of time during which the Declarant reserves the right to facilitate the development, construction, and marketing of the Residential Properties and the right to direct the size, shape, and composition of the Residential Properties; which period of time begins upon the recordation of this Residential Declaration in the Real Property Records of Harris County, Texas, and shall terminate on the earlier of: (i) the date on which construction of a single family home has been constructed on each Unit; or (ii) such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Real Property Records of Harris County, Texas.

Section 12. "**Equivalent Units**" shall mean that number assigned to each Unit, as provided in Article X, Section 1, of this Declaration, for purposes of allocating Base Assessments and Special Assessments among the Units subject to such assessments.

Section 13. "**Exclusive Common Area**" shall mean and refer to certain real and personal property which the Residential Association now or hereafter owns or otherwise has possessory or use rights for the exclusive use and benefit of one (1) or more, but less than all, Neighborhoods, as more particularly described in Article II of this Declaration.

Section 14. "**General Common Area**" shall mean all real and personal property which the Residential Association now or hereafter owns or otherwise has possessory or use rights for the common use and enjoyment of all Owners, including but not limited to streets and curbs within the Residential Properties.

Section 15. "**Master Plan**" shall mean and refer to the land use plan for the development of the Parkway at Eldridge community prepared by, or at the request of Declarant, as it may be amended by Declarant, from time to time, which plan includes the property described on EXHIBIT "A" and all or a portion of other real property which Declarant may from time to time anticipate subjecting to this Residential Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration.

Section 16. "**Member**" shall mean and refer to a Person entitled to membership in the Residential Association, as provided herein.

Section 17. "**Mortgage**" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 18. "**Mortgagee**" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 19. "**Mortgagor**" shall mean and refer to any Person who gives a Mortgage.

Section 20. "**Neighborhood**" shall mean and refer to each separately developed

section in the Residential Properties comprised of one (1) or more housing types, whether or not governed by an additional owners association, in which owners may have common interests other than those common to all Members, such as a common theme, entry feature, development name, and/or common areas and facilities which are not available for use by all Members. For example, and by way of illustration and not limitation, each townhome development and single-family detached housing development may constitute a separate Neighborhood, subject to division into more than one (1) Neighborhood upon development.

It shall not be necessary for any Neighborhood to be governed by a Neighborhood Residential Association except as required by law. Neighborhoods may be divided or combined in accordance with Article III, Section 3, of this Declaration.

Section 21. "Neighborhood Assessments" shall mean assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as more particularly described in Article X, Section 1, of this Declaration.

Section 22. "Neighborhood Expenses" shall mean and include all the actual and estimated expenses incurred by the Residential Association for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements and the costs incurred by the Residential Association in complying with any effective Service Consent (as that term is defined below), all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.

Section 23. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit which is part of the Residential Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 24. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 25. "Private Amenities" shall mean certain real property and the improvements and facilities thereon located adjacent to, in the vicinity of or within the Residential Properties, which from time to time are privately owned and operated by Persons other than the Residential Association for recreational related purposes, on a club membership basis or otherwise.

Section 26. "Residential Association" shall mean and refer to Homeowners Association of Parkway at Eldridge a Texas nonprofit corporation, its successors and assigns.

Section 27. "Residential Declaration" or "Declaration" shall mean and refer to this Declaration of Protective Covenants.

Section 28. "Residential Properties" or "Properties" shall mean and refer to the real property described in EXHIBIT "A" attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 29. "Special Assessment" shall mean and refer to assessments levied in accordance with Article X, Section 4, of this Declaration.

Section 30. "Supplemental Declaration" shall mean an amendment or supplement to this Residential Declaration executed by or consented to by Declarant which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Residential Association pursuant to Article VIII, Section 2, of this Residential Declaration to subject additional property to this Residential Declaration.

Section 31. "Unit" shall mean a portion of the Residential Properties, whether developed or undeveloped, intended (as indicated on the Master Plan) for development, use, and occupancy as an attached or detached residence for a single family, and shall unless otherwise specified, include within its meaning (by way of illustration, but not limitation), townhouse units, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Residential Properties. The term shall include all portions of the lot owned as well as any structure thereon. In the case of any structure which contains multiple dwellings, each dwelling shall be deemed to be a separate Unit.

Section 32. "Townhouse Lot" shall mean each of the lots platted as Lots 21 through 50, Block 3, Section 1. "Townhouse Lots" shall mean more than one (1) Townhouse Lot.

Section 33. "Townhouse" shall mean and refer to a structure constructed on a townhouse lot group containing two (2) or more residence dwellings, at least two (2) of which are joined together by a common wall or walls and/or a common roof and/or a common foundation.

Section 34. "Patio Landscaping" or "Townhouse Patio Landscaping" shall mean any landscaping within a completely enclosed patio located within the building footprint of a Townhouse, including any drainage line originating within such a patio and any irrigation systems serving the landscaping within such a patio.

Section 35. "Service Consent" shall have the meaning as assigned to it in Article III, Section 3(a).

Section 36. "TH Exterior Improvements" shall mean roofs, gutters and downspouts on the exterior wall of each building constructed on a townhouse lot group, driveways, and exterior walls of each building constructed on a townhouse lot group (not including doors and windows). For purposes of this Declaration, the term "exterior walls of each building" shall include only those walls immediately adjacent and parallel to the property lines forming the front, sides and rear of each townhouse lot group. The "roofs" as used herein shall be deemed to constitute only

the exterior surfaces of the roof constituting the roofing shingles, the underlay beneath the shingles, the decking materials, the flashing and any guttering attached to the roofing eaves. The Residential Association shall not have any responsibility to maintain, repair, or replace any trusses, beams or any portion of the structure supporting the roof. Exterior wall shall be deemed to be the building components which constitute the most outward portion of the building exterior, whether wood or hardiplank (or similar material), exterior siding, brick, stucco, and related exterior trim, including the painting (if applicable) of the foregoing materials. The Residential Association shall not have any responsibility to maintain, repair, or replace any portion of the structure of any Townhouse (including studs within the walls), foundations and the like, or any insulation materials whatsoever. If any of such items which are the responsibility of the Owner require repair or replacement, and the Owners(s) of the Townhouse fails or refuses to repair or replace same, the Residential Association shall have the right, but not the obligation to do so and 110% of the cost of such repair and/or replacement plus an administrative fee of \$50.00 shall be billed against the respective Townhouse(s) for which work is performed, such bill to be due upon receipt and if not timely paid, such bill shall be assessed as a Special Assessment against such Townhouse(s) and shall be secured by a lien against such Townhouse(s) as herein provided. The Association, its Board of Directors, officers or agents shall not be responsible or liable to any Owner (or the Owner's tenant or other occupant) for any damage to the interior of the Townhouses or contents thereof (including the attic space) resulting from roof leaks or water penetration unless same has resulted from the willful acts or gross negligence of the Residential Association. In no event shall the Residential Association be liable for repair or replacement of any consequential or incidental damage to the interior of the Townhouse(s) which may result, whether foreseen or unforeseen, from the Residential Association's repairs and/or activities.

Section 37. "Unit Landscaping" or "Townhouse Unit Landscaping" shall mean all lawns and landscaping on a Townhouse Lot within a TH Neighborhood, including the irrigation systems serving same except for any Townhouse Patio Landscaping.

Section 38. "TH Neighborhood" shall mean a residential area consisting of one or more contiguous townhouse lot groups.

ARTICLE II

Property Rights

Section I. General. Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

(a) this Residential Declaration as same may be amended from time to time, and subject to any restrictions or limitations contained in any deed conveying such property to the Residential Association;

(b) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;

(c) the right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Residential Declaration, By-Laws, or rules of the Residential Association after notice and a hearing pursuant to Article III, Section 21, of the By-Laws;

(d) the right of the Residential Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Article XIII, Section 5 hereof;

(e) the right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Area;

(f) the right of the Board to permit nonmember use of any recreational facility situated on the Common Area upon payment of use fees established by the Board;

(g) the right of the Residential Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Article XIV, Section 2, hereof;

(h) the rights of certain Owners to the exclusive use of portions of the Common Areas, designated Exclusive Common Areas, as more particularly described in Section 2 below; and

(i) drilling rights and other oil, gas and minerals on and under the Common Areas to the extent reserved to Persons other than the Residential Association.

Any Owner may delegate his or her right of use and enjoyment to the members of his or her family, lessees and social invites, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

The initial Common Area shall be conveyed to the Residential Association prior to the conveyance of a Unit to any Unit purchaser other than a builder or developer holding title for the purpose of development and resale.

Section 2. Exclusive Common Areas. Certain portions of the Common Areas may be designated as Exclusive Common Areas and reserved for the exclusive use of Owners and occupants of Units within a particular Neighborhood or

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Neighborhoods. All costs associated with the operation, maintenance, repair, replacement and insurance of Exclusive Common Areas shall be assessed as a Neighborhood Assessment, as defined herein, against the Owners of Units in only those Neighborhoods to which the Exclusive Common Areas are assigned. By way of illustration and not limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of Owners within a particular Neighborhood or Neighborhoods and supported exclusively by Neighborhood Assessments.

The exclusive use of any Exclusive Common Areas may be designated in the deed conveying the Common Area to the Residential Association or on the recorded plat relating to such Common Area or in a separate document signed by the Declarant and recorded in the Real Property Records of Harris County, Texas. A portion of the Common Area may be designated as Exclusive Common Area of a particular Neighborhood or Neighborhoods and Exclusive Common Area may be redesignated upon the affirmative vote of a majority of the Board of Directors. As long as the Declarant owns any property subject to this Residential Declaration primarily for development and/or sale, any such designation or redesignation or reassignment shall also require the consent of the Declarant.

Section 3. Private Amenities.

(a) Neither membership in the Residential Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenities. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether.

(b) No representations or warranties have been or are made by the Declarant or any other person with regard to the continuing ownership or operation of the Private Amenities, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed or joined into by the Declarant.

Further, the ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of the Private Amenities or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenities, or (c) the conveyance of the Private Amenities to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Residential Association, any Neighborhood Residential Association, or any Owner shall be required to effectuate such a transfer or conversion.

ARTICLE III

Membership and Voting Rights

Section 1. **Membership** Every Owner, as defined in Article I, shall be deemed to have a membership in the Residential Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Residential Association, subject to the provisions of this Declaration and the By-Laws.

Section 2. **Voting.** The Residential Association shall have two (2) classes of membership, Class "A" and Class "B".

(a) **Class "A".** Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Section 1 hereof; there shall be only one (1) vote per Unit.

In any situation where more than one (1) Person holds the interest in a Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Residential Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) person seeks to exercise it.

(b) **Class "B".** The Class "B" Member shall be the Declarant. The Class "B" Member shall be entitled to ten (10) votes for each Unit in the Residential Properties which the Class "B" Member owns. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the By-Laws, are as specified herein and therein. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III (A), Section 2, of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in Article III (A), Section 3, of the By-Laws. The Class "B" membership shall terminate and become converted to Class "A" membership on the earlier of:

(i) two (2) years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or

(ii) when, in its discretion, the Declarant so declares in a recorded instrument.

Section 3. Neighborhoods.

(a) Neighborhoods. Every Unit shall be located within a Neighborhood as defined in Article I. The Units within a particular Neighborhood may be subjected to additional covenants and/or the Unit Owners may all be members of another owners association ("Neighborhood Residential Association") in addition to the Residential Association, but no such Neighborhood Residential Association shall be required except as required by law.

Each Neighborhood, upon the affirmative written consent of a two-thirds (2/3's) fractional majority of Owners within the Neighborhood, may require the Residential Association to provide a higher level of service or special services for the benefit of Units in such Neighborhood (a "Service Consent"). Any such Service Consent shall become effective upon its delivery to the Board of Directors of the Residential Association. Subsequent to receipt of any such Service Consent, the Residential Association shall provide such services commencing thirty (30) days after the Service Consent becomes effective or as soon as reasonably practical thereafter and the cost of such services shall be assessed against the Units within such Neighborhood pursuant to Article X hereof. Once a Service Consent has been issued by a Neighborhood and delivered to the Board of Directors of the Residential Association, the Service Consent may not be terminated, withdrawn, or modified without the written consent of the Residential Association and a two-thirds (2/3's) fractional majority of Owners within the Neighborhood.

The Declarant or the Board of Directors may time to time to designate Neighborhood boundaries; provided, two (2) or more Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

The Owner(s) of a two-thirds (2/3's) fractional majority of the total number of Units within any Neighborhood may at any time petition the Board of Directors to divide the property comprising the Neighborhood into two (2) or more Neighborhoods. Any such petition shall be in writing and shall include a plat of survey of the entire parcel which indicates the boundaries of the proposed Neighborhood(s) or otherwise identifies the Units included within the proposed Neighborhood(s). Such petition shall automatically be deemed granted unless the Board of Directors denies such application in writing within thirty (30) days after its receipt. The Board may deny an application only upon determination that there is no reasonable basis for distinguishing between the areas proposed to be divided into separate Neighborhoods. All applications and copies of any denials shall be filed with the books and records of the Residential Association and shall be maintained as long as this Declaration is in effect.

ARTICLE IV

Maintenance

Section 1. Association's Responsibility. The Residential Association shall maintain and keep in good repair the Area of Common Responsibility and, subject to the provisions of Article X, Section 3, such other portions of the Residential Properties as may be provided for in any effective Service Consent. The Area of Common Responsibility shall include, but not be limited to, all landscaping and improvements on the Common Areas, landscaping within public rights-of-way in or adjacent to the Residential Properties, landscaping on any public utility easement within the Residential Properties (subject to the terms of any easement agreement relating thereto), all perimeter, boundary fencing and walls constructed by Declarant and situated on the Common Area or upon Units which are immediately adjacent to the Common Area and such portions of any additional property within the Area of Common Responsibility. The Area of Common Responsibility shall also include all ponds, streams and/or wetlands located within the Residential Properties which serve as part of the drainage and storm water retention system for the Residential Properties, including any retaining walls, bulkheads or dams retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or in connection therewith. The Residential Association shall maintain such facilities and equipment in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless at least seventy-five (75%) percent of the members of the Board of Directors and the Class "B" Member, if such then exists, agree in writing to discontinue such operation. The Residential Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

There are hereby reserved to the Residential Association blanket easements over the Residential Properties as reasonably necessary to enable the Residential Association to fulfill its responsibilities under this Section.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, subject to the right of the Residential Association to seek reimbursement from the owner(s) of, or other persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) of, or other persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the

Units within the Neighborhood(s) to which the Exclusive Common Areas are assigned, notwithstanding that the Residential Association may be responsible for performing such maintenance hereunder.

The Residential Association shall also be responsible for maintenance, repair and replacement of TH Exterior Improvements, Townhouse Unit Landscaping and of property within any Neighborhood to the extent designated in any Supplemental Declaration affecting the Neighborhood. The Residential Association may also assume maintenance responsibilities with respect to any Neighborhood in addition to those that may be designated by any Supplemental Declaration. This assumption of responsibility may take place either by agreement with the Neighborhood Residential Association or Committee or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Residential Properties. All costs of maintenance pursuant to this Section shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

In the event that the Board of Directors determines that (a) any Owner has failed or refused to discharge properly his or her obligations with regard to the maintenance, repair, or replacement of items for which he or she is responsible hereunder; or (b) that the need for maintenance, repair, or replacement, which is the responsibility of the Residential Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, then, in addition to the enforcement and self help remedies set forth herein, the Residential Association may turn this matter over to its attorney for further handling and/or the Residential Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Residential Association's intent to provide such necessary maintenance, repair, or replacement, at Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Residential Association may, but shall not be obligated provide any such maintenance, repair, or replacement and shall bill the Owner therefore 110% of such cost and expenses, plus a \$50.00 administrative fee, such bill to be due upon receipt and if not timely paid, such bill shall be added to and become a Special Assessment to which such Owner is subject and shall become a lien against the Unit.

Section 2. **Owner's Responsibility.** Owners of Units which are adjacent to any portion of the Common Area on which walls, other than walls which form part of a building, have been constructed shall maintain and irrigate that portion of the Common Area which lies between such wall and the Unit boundary. Except as otherwise provided in an effective Service Consent, each Owner shall maintain such Owner's Unit and all structures (excluding all perimeter, boundary fencing and walls constructed by Declarant and situated on the Common Area or upon Units which are immediately adjacent to the Common Area), parking areas and other improvements comprising the Unit. Owners of Units adjacent to any public or private roadway within the Residential Properties shall maintain driveways serving their respective Units, whether or not lying within the Unit boundaries, and shall maintain and irrigate landscaping on that portion of the Common Area, if any, or right-of-way between the Unit boundary and the back-of-curb of the adjacent street. Owners of Units abutting the bank or water's edge, or a portion of the

Common Area abutting the bank or water's edge, of any river, pond, stream or wetland within the Residential Properties shall maintain and irrigate all landscaping between the Unit boundary and such bank or water's edge; provided there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XI hereof.

All maintenance required by this Section 2 shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants unless such maintenance responsibility is otherwise assumed by or assigned to a Neighborhood pursuant to any additional declaration or covenants applicable to such Unit. In addition to any other enforcement rights available to the Residential Association, if any Owner fails properly to perform his or her maintenance responsibility, the Residential Association may perform it and assess all costs incurred by the Residential Association against the Unit and the owner thereof in accordance with Article X, Section 4 of this Declaration; provided, however, except when entry is required due to an emergency situation, the Residential Association shall afford the owner reasonable notice and an opportunity to cure the problem prior to entry.

Section 3. Neighborhood's Responsibility. Upon resolution of the Board of Directors, the Owners of Units within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, costs of maintenance of certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintenance of any right-of-way and green space between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and ponds or wetlands within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Residential Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

Any Neighborhood Residential Association whose common property is adjacent to any portion of the Common Area upon which a wall, other than a wall which forms part of a building, is constructed shall maintain and irrigate that portion of the Common Area between the wall and the Neighborhood Residential Association's property line. Any Neighborhood Residential Association whose common property fronts on any roadway within the Residential Properties shall maintain and irrigate the landscaping on that portion of the Common Area or right-of-way between the property line and the nearest curb of such roadway. Any Neighborhood Residential Association whose common property abuts the bank or water's edge, or a portion of the Common Area abutting the bank or water's edge, of any river, pond, stream or wetland area within the Residential Properties shall maintain and irrigate all landscaping between the boundary of its common property and such bank or water's edge; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XI hereof.

Any Neighborhood having responsibility for maintenance of all or a portion of the property within a particular Neighborhood pursuant to additional covenants affecting the Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If any such Neighborhood

fails to perform its maintenance responsibility as required herein or in any additional covenants, the Residential Association may perform it and assess the costs against all Units within such Neighborhood as provided in Article X, Section 4, of this Declaration.

Section 4. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction on the Units (except those constructed by Declarant) which shall serve and separate any two (2) adjoining Units shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it. If the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

ARTICLE V

Insurance and Casualty Losses

Section 1. Insurance. The Residential Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements of the Area of Common Responsibility. If blanket "all risk" coverage is not reasonably available, then at a minimum, an insurance policy

providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

In addition to property insurance on the Area of Common Responsibility, the Residential Association shall obtain, in the name of the Residential Association, and continue in effect adequate blanket "all-risk" property insurance, if reasonably available, on the Units within the TH Neighborhood. If "all-risk" insurance is not reasonably available, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board of Directors deems appropriate, and the face amount of the policy shall be sufficient to cover the full replacement cost of all structures to be insured. The costs thereof shall be charged to the Owners of Units within the TH Neighborhood as a Neighborhood Assessment.

Each Owner, including but not limited to Owners of Units within the TH Neighborhood, should obtain insurance to cover the contents of his or her respective Unit.

The Residential Association shall have no insurance responsibility for any part of any Private Amenity except to the extent it is a part of the Area of Common Responsibility or as otherwise provided in this Declaration.

Insurance obtained on the properties within any Neighborhood, whether obtained by the Neighborhood Residential Association for such Neighborhood, if any, or the Residential Association, shall at a minimum comply with the applicable provisions of this Section 1, including the provisions of this Section applicable to policy provisions, loss adjustment, and all other subjects to which this Section applies with regard to insurance on the Common Area. All such insurance shall be in a face amount sufficient to cover the full replacement cost of all insured structures. All such policies shall provide for a certificate of insurance to be furnished to the Residential Association, and to the Neighborhood Residential Association, if any.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Residential Association and its Members for all damage or injury caused by the negligence of the Residential Association, or any person for whose acts the Residential Association is held responsible. The public liability policy shall have such coverage limits as the Board may determine in the exercise of its business discretion.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment; provided, however, premiums to insure Exclusive Common Areas shall be included in the Neighborhood Assessment of the Neighborhood(s) benefited thereby unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate.

Insurance policies may contain a reasonable deductible, and the amount thereof

shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be governed by the following provisions:

(a) All policies shall be written with a company authorized to do business in Texas which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or if not available, the most nearly equivalent rating which is available.

(b) All policies on the Area of Common Responsibility shall be for the benefit of the Residential Association and its Members and shall be written in the name of the Residential Association as trustee for the benefited parties. All policies on the Units within a TH Neighborhood shall be for the benefit of the Residential Association and the Owners of Units within the Neighborhood, and their Mortgagees, as their interests may appear and shall be written in the name of the Residential Association as trustee for the benefited parties..

(c) Exclusive authority to adjust losses under policies obtained by the Residential Association, including but not limited to losses to the Units within the TH Neighborhood, shall be vested in the Residential Association's Board of Directors, provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Residential Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All property insurance policies shall have an inflation guard endorsement, if reasonably available, and if the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Residential Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Greater Houston Metropolitan Area.

(f) The Residential Association's Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, officers, employees, and manager, the Owners and occupants of Units, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Owners;

(iv) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of any curable defect or violation without prior demand in writing delivered to the Residential Association to cure the defect or violation and the allowance of a reasonable time thereafter within which the defect may be cured by the Residential Association, its manager, any Owner, or Mortgagee;

(v) a statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) a statement that the Residential Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance (if and to the extent directors' and officers' liability coverage (if reasonably available), a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, and flood insurance (if reasonably available). The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than one-sixth (1/6) of the annual Base Assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Residential Association of any cancellation, substantial modification, or non-renewal.

Notwithstanding the specific provisions of this Section 1, the Board shall be fully authorized to obtain other or different insurance policies, coverage amounts, terms and endorsements in the event of changed circumstances during the term of these Covenants. For purposes hereof the term "changed circumstances" means and refers to any fact or matter involving changes in liability law, insurance coverages offered and available, economic feasibility, cost to benefit ratios or any other matter for which the Board receives notification and a recommendation for variance from the terms hereof by a knowledgeable, professional insurance advisor, acting in good faith.

Section 2. Individual Insurance. Except for Units within a TH Neighborhood, by virtue of taking title to a Unit subject to the terms of this Residential Declaration, each Owner covenants and agrees with all other Owners and with the Residential Association that in the event of loss or damage to the structures

comprising his Unit, the Owner shall either: (a) proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration, or (b) clear the Unit of all damaged structures, debris and ruins and thereafter maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

A Neighborhood Residential Association, through recorded covenants, may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units within the Neighborhood and the standard for returning the Units to their natural state in the event the structures are not rebuilt or reconstructed.

Section 3. Damage and Destruction

(a) Immediately after damage or destruction by fire or other casualty to all or any part of any property covered by insurance written in the name of the Residential Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to any Unit or Units within the TH Neighborhood shall be repaired or reconstructed. Any damage or destruction to the Common Area or to the common property of any Neighborhood Residential Association shall be repaired or reconstructed unless the Members representing at least seventy-five (75%) percent of the total Class "A" vote of the Residential Association, if Common Area, or the Unit Owners representing at least seventy-five (75%) percent of the total vote of the Neighborhood Residential Association whose common property is damaged, if common property of a Neighborhood Residential Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Residential Association within said period, then the period shall be extended until such funds or information shall be available; provided, however, such extension shall not exceed sixty (60) additional days. Except as provided in Article XIV hereof, no Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area or common property of a Neighborhood Residential Association shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction of the Common Area or to the common property of any Neighborhood Residential Association shall not be repaired or reconstructed and no

alternative improvements are authorized, then and in that event the affected portion of the Residential Properties shall be cleared of all debris and ruins and maintained by the Residential Association, or the Neighborhood Residential Association, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Section 4. **Disbursement of Proceeds.** If the damage or destruction for which the proceeds of insurance policies held by the Residential Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as herein provided. Any proceeds remaining after defraying such costs of repair or reconstruction, or if no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) (as their interests may appear), shall be retained by and for the benefit of the Residential Association (or the Neighborhood Residential Association, if the policy was obtained for the benefit of a specific Neighborhood) and placed in a capital improvements account.

Section 5. **Repair and Reconstruction.** If the damage or destruction to the Common Area or to the common property of a Neighborhood Residential Association for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against those Owners of Units responsible for the premiums for the applicable insurance coverage under Section 1 of this Article. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

If the damage or destruction to a Unit or Units within a TH Neighborhood for which the insurance proceeds are paid is not sufficient to defray the cost of the repairs or reconstruction thereof, the Board of Directors shall, without the necessity of a vote of the Residential Association's members, levy a special assessment against all Owners of Units within the TH Neighborhood in proportion to the number of Units within the TH Neighborhood owned by such Owners. Additional assessments may be made in a like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE VI

No Partition

Except as is permitted in this Residential Declaration or amendments hereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Residential Declaration. This Section shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Residential

Declaration.

ARTICLE VII

Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, along with the approval of the Declarant, as long as the Declarant owns any part of the Residential Properties) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Residential Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in **EXHIBIT "A"** hereto, and Members representing at least seventy-five (75%) percent of the total Class "A" vote of the Residential Association shall otherwise agree, the Residential Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands and funds are available, in accordance with plans approved by the Board of Directors of the Residential Association. If such improvements are to be repaired or restored, the disbursement of funds therefor shall be made in accordance with the provisions of Article V above.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after such restoration or replacement is completed, then such award or net funds shall be disbursed to the Residential Association and used for such purposes as the Board of Directors of the Residential Association shall determine.

ARTICLE VIII

Annexation of Additional Property

Section 1. Annexation Without Approval of Class "A" Membership. Declarant shall have the unilateral right, privilege, and option, from time to time, to subject to the provisions of this Residential Declaration and the jurisdiction of the Residential Association to any other real property. Such annexation shall be accomplished by filing in the Real Property Records of Harris County, Texas, a Supplemental Declaration annexing such property and which Supplemental Declaration may contain provisions which are different than the provisions contained in this Residential Declaration. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective, upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein

reserved to Declarant.

Section 2. Annexation with Approval of Class "A" Membership. Subject to the consent of the owner thereof, the Residential Association may annex real property, to the provisions of this Residential Declaration and the jurisdiction of the Residential Association. Such annexation shall require the affirmative vote of Members representing a majority of the Class "A" votes of the Residential Association (other than those held by Declarant) present at a meeting duly called for such purpose and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 1 of this Article.

Annexation pursuant to this Section 2 shall be accomplished by filing of record in the Real Property Records of Harris County, Texas, a Supplemental Declaration describing the property being annexed and which Supplemental Declaration may contain provisions which are different than the provisions contained in this Residential Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Residential Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3. Acquisition of Additional Common Area. Declarant may convey to the Residential Association for the benefit of such class or classes of persons as are identified in the deed of conveyance additional real estate, improved or unimproved.

Section 4. Withdrawal of Property. Declarant reserves the right to amend this Residential Declaration unilaterally at any time and from time to time, without prior notice and without the consent of any Person for the purpose of removing certain portions of the Residential Properties then owned by the Declarant, its affiliates, or the Residential Association from the provisions of this Declaration.

Section 5. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Residential Properties to additional covenants and easements, including covenants obligating the Residential Association to maintain and insure such property on behalf of the Owners thereof and obligating such Owners to pay the costs incurred by the Residential Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

Section 6. Amendment. This Article VIII shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any part of the

Residential Properties.

ARTICLE IX

Rights and Obligations of the Residential Association.

Section 1. Common Area. The Residential Association, subject to the rights of the Owners, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas) and shall keep it in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 2. Personal Property and Real Property for Common Use.

The Residential Association, through actions of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Residential Association, shall accept any real or personal property, leasehold, or other property interest within the Residential Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. The Residential Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use, maintenance, repair, replacement, modification and appearance of the Residential Properties, which rules and regulations are allowed pursuant to Section 204.010(a)(6) of the Texas Property Code, or any successor statute, and shall be consistent with the rights and duties established by this Declaration. Sanctions for violations of this Declaration, the By-Laws, or the rules and regulations of the Residential Association, may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the Common Area. In addition, the Residential Association, in accordance with Article III(c), Section 21, of the By-Laws, shall have the right to exercise self-help to cure violations, and shall be entitled to suspend any services provided by the Residential Association to any Owner or such Owner's Unit in the event that such Owner is more than thirty (30) days delinquent in paying any assessment or other charges due to the Residential Association. The Board shall also have the power to seek relief in any court for violations or to abate nuisances. Impositions of sanctions shall be as provided in the By-Laws of the Residential Association.

The Residential Association, through the Board, by contract or other agreement, shall have the right to enforce federal, state, county and city laws, regulations, and ordinances applicable to the Residential Properties of any portion thereof.

Section 4. Implied Rights. The Residential Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or

privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5. Governmental Interests. For so long as the Declarant owns any part of the Residential Properties, the Residential Association shall permit the Declarant authority to designate sites within the Residential Properties, which may include Common Area owned by the Residential Association, for fire, police, water, and sewer facilities, public schools and parks, and other public facilities.

Section 6. Powers of the Residential Association with Respect to Neighborhoods. The Residential Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Residential Association which the Board reasonably determines to be adverse to the interest of the Residential Association or its Members or inconsistent with the Community-Wide Standard. The Residential Association shall also have the power to require specific action to be taken by any Neighborhood Residential Association in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Residential Properties. Without limiting the generality of the foregoing, the Residential Association may require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood Residential Association, may require that a proposed budget include certain items and that expenditures be made therefor, and may veto or cancel any contract providing for maintenance, repair, or replacement of the property governed by such Neighborhood Residential Association.

Any action required by the Residential Association in a written notice pursuant to the foregoing paragraph to be taken by a Neighborhood Residential Association shall be taken within the time frame set by the Residential Association in such written notice, which time frame shall be reasonable. If the Neighborhood Residential Association fails to comply with the requirements set forth in such written notice, the Residential Association shall have the right to effect such action on behalf of the Neighborhood Residential Association. To cover the Residential Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Residential Association, the Residential Association shall assess the Units in such Neighborhood for their pro rata share of any expenses incurred by the Residential Association in taking such action in the manner provided in Article X, Section 4. Such assessments may be collected as a Special Assessment hereunder and shall be subject to all lien rights provided for herein.

ARTICLE X

Assessments.

Section 1. Creation of Assessments. There are hereby authorized and created assessments for Residential Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 7 below. There shall be three (3) types of assessments:

(a) Base Assessments to fund Common Expenses for the benefit of all Members of the Residential Association; (b) Neighborhood Assessments for Neighborhood Expenses benefiting only Units within a particular Neighborhood or Neighborhoods; and (c) Special Assessments as described in Section 4 below. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Residential Properties, is deemed to covenant and agree to pay these assessments.

Base Assessments shall be levied on each Unit on the basis of Equivalent Units, as provided in Section 2 below. Neighborhood Assessments shall be levied equally against all Units in the Neighborhood benefiting from the services supported thereby; provided, in the event of assessments for exterior maintenance of structures, or insurance on structures, or replacement reserves which pertain to particular structures, such assessments for the use and benefit of particular Units shall be levied on each of the benefited Units in proportion to the benefit received, if so directed by the Neighborhood in writing to the Board of Directors. Special Assessments shall be levied as provided in Section 4 below.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by Texas law) as computed from the date the delinquency first occurs, fines, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and a continuing lien upon each Unit as more particularly provided in Section 5 below, and shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. In the event of a transfer of title to a Unit, the grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Residential Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a document setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Residential Association of any assessments therein stated to have been paid. The Residential Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors and, if so specified by resolution of the Board, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require any unpaid installments of the annual assessment and/or any other assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by

non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Residential Association or Board to take some action or perform some function required to be taken or performed by the Residential Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Residential Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

So long as the Declarant has an option unilaterally to subject additional property to this Declaration, the Declarant may annually elect either to pay regular assessments on its unsold Units or to pay to the Residential Association the difference between the amount of assessments collected on all Units subject to assessment and the amount of actual expenditures required to operate the Residential Association during the fiscal year. Unless the Declarant otherwise notifies the Board of Directors in writing at least sixty (60) days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. The Declarant's obligations hereunder may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

The Residential Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expense.

Section 2. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Residential Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared, as provided in Section 6 below.

The Base Assessments to be levied against each Unit for the coming year shall be determined by multiplying the total budgeted Common Expenses, including reserves, by a fraction, the numerator of which is the number of Equivalent Units assigned to such Unit, as described below, and the denominator of which is the total number of Equivalent Units assigned to all Units subject to assessment under Section 7 below.

Notwithstanding the above, the Board may, in its sole discretion, reduce the Base Assessments determined pursuant to the above formula by taking into account:

- (a) other sources of funds available to the Residential Association; and
- (b) assessments to be levied upon additional Units reasonably anticipated to

become subject to assessment during the fiscal year.

For purposes of this Section, the number of Equivalent Units allocated to each Unit shall be as follows:

<u>Use or Proposed Use of Property</u>	<u>Equivalent Units</u>
Townhouse Dwellings	
Occupied Units	.75
Unoccupied Units	.375
Single-Family (Detached) Dwellings	
Occupied Units	1.00
Unoccupied Units	.50

For purposes of assigning Equivalent Units, a Unit shall be considered "occupied" if the structure constructed thereon is substantially completed and has at any time been occupied for residential purposes, whether or not it is presently occupied.

Until the expiration of the Development Period, the Declarant, at its option, may elect on an annual basis, to reduce the resulting Base Assessments for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 1 above); provided, however, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Base Assessment to be levied against each Unit for the following year to be delivered to each Owner at such Owner's last known address according to the records of the Residential Association (the "Owner Address") at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting by Members representing at least seventy-five (75%) percent of the total Class "A" vote in the Residential Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Article II, Section 4, of the By-Laws, which petition must be presented to the Board within ten (10) days of the notice of assessments.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. Computation of Neighborhood Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to

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prepare a separate budget covering the estimated Neighborhood Expenses to be incurred by the Residential Association for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration or the By-Laws specifically authorize the Board to assess certain costs, such as the cost of maintaining Exclusive Common Areas, the cost of obtaining a blanket "all-risk" property insurance on the Units within the TH Neighborhood, the cost of maintaining, repairing and replacing the TH Exterior Improvements and Townhouse Unit Landscaping (and establishing and funding replacement reserves for the TH Exterior Improvements and Townhouse Unit Landscaping) as a Neighborhood Assessment. Any Neighborhood may require that additional services or a higher level of services be provided by the Residential Association, and in such case, any additional costs shall be added to such budget. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Neighborhood, as appropriate. Neighborhood Expenses shall be allocated equally among all Units within the Neighborhood benefited thereby and levied as a Neighborhood Assessment.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment to be levied on each Unit in the Neighborhood for the coming year to be delivered to each Owner of a Unit in the Neighborhood, at the Owner Address, at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by the Owners of at least seventy-five (75%) percent of the Units in the Neighborhood to which the Neighborhood Assessment applies; provided, however, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least ten (10%) percent of the Units in such Neighborhood; and provided, further, the right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood.

In the event the proposed budget for any Neighborhood is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Special Assessments.

(a) Entire Membership. The Residential Association may levy Special Assessments from time to time provided such assessments receive the affirmative vote or written consent of at least sixty-six (66%) percent of the members of the Board of Directors and the affirmative vote or written consent of the Class "B" Member, if such then exists. Special Assessments levied against the entire membership shall be allocated to the Units in proportion to their Equivalent Units unless the Board determines that another method is more equitable. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so

determines.

(b) Less Than All Members. The Residential Association may levy a Special Assessment against any Member individually and against such Member's Unit to reimburse the Residential Association for costs incurred to bring a Member and his Unit into compliance with the provisions of this Declaration, any amendments hereto, the Certificate, the By-Laws, or the Residential Association rules and regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing. The Residential Association may also levy a Special Assessment equally against the Units in any Neighborhood to reimburse the Residential Association for costs incurred in bringing the Neighborhood into compliance with the provisions of this Declaration, any applicable Supplemental Declaration, the Certificate, the By-Laws, or the Residential Association rules and regulations, which Special Assessments may be levied upon the vote of the Board.

Section 5. Lien for Assessments. Declarant hereby establishes, reserves, creates, and subjects all Units to a perfected contractual lien for unpaid assessments fines, attorney fees, court costs and other expenses prior and superior to all other liens except liens for (i) taxes, bonds, assessments and other levies which by law would be superior thereto, or (ii) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Declarant hereby assigns, without recourse, such lien to the Residential Association. The lien shall be self operative, shall arise by virtue of the conveyance by Declarant of any Unit to the first Owner thereof and shall continue thereafter in inchoate form without any deed of trust, mortgage, or other document being executed or granted, without such lien being reserved or referenced in any deed or other conveyance document, and without any other action being taken by any party.

To secure the full and timely payment of all assessments and other amounts due the Residential Association, including all Base Assessments, Special Assessments, fines and all attorneys fees, court costs, and other expenses incurred by the Residential Association in collecting or attempting to collect such amounts, or in foreclosing or attempting to foreclose the lien created hereby or otherwise in exercising any of its rights, remedies, or recourses provided under this Declaration, and any interest thereon as permitted pursuant to this Declaration, Declarant has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto Mark K. Knop, Trustee ("Trustee") each of the Units in trust for the benefit of the Residential Association.

At the option of the Residential Association at any time, without cause or notice, and without procuring the resignation of the former Trustee, a successor or substitute Trustee may be appointed by written instrument. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.

If any Owner fails to pay any amount it owes to the Residential Association, the Residential Association may, without prejudice to any other rights or

remedies available at law or equity, request Trustee to foreclose the lien created by the first paragraph of this Section 5, whereupon Trustee shall (i) either personally or by agent give notice of foreclosure sale as required by the Texas Property Code for the sale of real property under a power of sale conferred by a deed of trust or other contract lien as then amended; (ii) sell and convey all or part of the property to the highest bidder for cash by general warranty binding upon the defaulting Owner; and (iii) from the proceeds of the sale, pay, in the following order, expenses of foreclosure, all amounts owing to the Residential Association, and the balance, if any, to the defaulting Owner.

Although no further action is required to create or perfect the lien, the Residential Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums due the Residential 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 Residential Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The lien may be foreclosed through foreclosure proceedings in accordance with Tex. Prop. Code Ann. Section 51.002 (Vernon 2013) and Tex. Prop. Code Ann. Section 209 (Vernon 2013), as it may be amended, in like manner as any deed of trust on real property. At any foreclosure proceeding, any Person, including but not limited to Declarant, the Residential Association, and any Owner shall have the right to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Residential Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Residential Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses, fines, attorney fees, court costs and other expenses and assessments shall be maintainable without foreclosing or waiving the lien securing the same.

Section 6. **Reserve Budget and Capital Contribution.** The Board of Directors shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Residential Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 2 and 3 of this Article X hereof.

Section 7. **Date of Commencement of Assessments.** The obligation to pay the assessments provided herein shall commence as to each Unit on the first day of the month following the later to occur of: (a) the month in which the Board of Directors

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first determines a budget and levies assessments pursuant to this Declaration; or (b) the month in which the Unit is made subject to this Declaration. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual Base Assessment levied on a Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Section 8. Subordination of the Lien to First Mortgages. The liens of assessments, including interest, fines, late charges (subject to the limitations of Texas law), and cost (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage or home equity Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage or home equity Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien encumbrances for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or home equity Mortgage or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Residential Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 9. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Common Area;
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any; and
- (c) any property used by Declarant for operation of an information and marketing center with respect to the Residential Properties.

ARTICLE XI

Architectural Standards

No structure or improvement shall be placed, erected or installed upon any Unit, no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of existing structure or improvements, and no planting or removal of plants, trees, or shrubs shall take place except in strict compliance with this Declaration, until the requirements below have been fully met, and until the written approval of the

appropriate committee has been obtained pursuant to Sections 1 and 2 below. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Residential Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

All dwellings constructed on any portion of the Residential Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

This Article shall not apply to the activities of the Declarant, nor to construction of improvements or modifications to the Common Area by or on behalf of the Residential Association.

The Board of Directors shall have the authority and standing, on behalf of the Residential Association, to enforce in courts of competent jurisdiction decisions of the committees established in Sections 1 and 2 of this Article XI. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Residential Declaration or subject to annexation hereunder.

Section 1. New Construction Committee. The New Construction Committee (NCC) shall consist of at least three (3), but not more than five (5), persons and shall have exclusive jurisdiction over all original construction on any portion of the Residential Properties. Until one hundred (100%) percent of the Residential Properties have been improved with a residential dwelling and conveyed to a home buyer in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC, who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC, who shall serve and may be removed at the discretion of the Board of Directors. The members of the NCC may include architects, engineers and other persons who are not members of the Residential Association.

The NCC may prepare and, on behalf of the Board of Directors, may promulgate design and development guidelines governing construction within the Residential Properties, which may include application and review procedures to be followed in submitting an application for approval hereunder ("Design Guidelines"). The Design Guidelines shall be those of the Residential Association, and the NCC shall have sole and full authority to modify and to amend them from time to time without the consent of any Owner. The NCC shall make the Design Guidelines available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Residential Properties and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. In the event that the NCC fails to approve or disapprove plans submitted to it, or to request additional information reasonably required, within thirty (30) days after submission thereof, the plans shall be

deemed denied.

Section 2. Modifications Committee. The Board of Directors may establish a Modifications Committee (MC) to consist of at least three (3) and not more than five (5) persons, all of whom shall be appointed by, and shall serve at the discretion of, the Board of Directors. Members of the MC may include architects or other persons who are not Members of the Residential Association. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto; provided, the MC may delegate this authority to the appropriate board or committee of any Neighborhood Residential Association subsequently created or subsequently subject to this Residential Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures, and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. The NCC shall have the right to veto any action taken by the MC which the NCC determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the NCC.

The MC shall promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with those of the NCC. In addition, the following shall apply: plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation.

Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Unit, or to paint the interior of his Unit any color desired; provided, however, modifications or alterations to the interior of screened porches, patios and similar portions of a Unit visible from outside the Unit shall be subject to approval. In the event that the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed denied.

Section 3. No Waiver of Future Approvals. The approval of either the NCC or MC of any proposals or plans and specifications or drawings 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 proposals, plans and specifications, drawings, or other subsequent matters

Section 4. Variance. The NCC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance shall be effective unless in writing. No previously granted variance shall ever operate in any manner to waive NCC guidelines or to stop the NCC from denying a

variance in other circumstances.

Section 5. Compliance With Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the NCC or MC may be excluded by the Board from the Residential Properties without liability to any person, subject to the notice and hearing procedures contained in Article III, Section 21, of the By-Laws, as same may be amended from time to time.

Section 6. No Liability. Review and approval of any application pursuant to this Article is made on the basis of subjective, aesthetic considerations only and neither the NCC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Residential Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Unit.

ARTICLE XII

Use Restrictions

The Residential Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Residential Association or business offices for the Declarant or the Residential Association, as may more particularly be set forth in this Declaration and amendments hereto. Any Supplemental Declaration or additional covenants imposed on the property within any Neighborhood may impose stricter standards than those contained in this Article. The Residential Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Residential Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Residential Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees and licensees, if any, until and unless overruled, cancelled or modified in a regular or special meeting of the Residential Association by the vote of Members representing a two thirds (2/3's) majority of the total Class "A" votes in the Residential Association and by the Class "B" Member, so long as such membership shall exist.

Section 1. Signs. Until the builders and the Declarant no longer own any Units, a single "for sale" or "model home" sign shall be permitted on any newly constructed Unit being offered for sale or lease by builders (builder or builders as used in this Section shall mean the entity who purchased one or more Units from the

Declarant) or the Declarant, provided it does not exceed four (4) feet by eight (8) feet in size and does not stand higher than five (5) feet from the ground. After the builders and the Declarant no longer own any Units, the Board of Directors may promulgate rules and regulations regulating "for sale" or "model home" or "security" signs, including prohibiting such signs. Unless the Board of Directors promulgates rules and regulations otherwise, "for sale", "model home" and "security" signs shall not be allowed after both the builders and the Declarant no longer own any Units. No other signs of any kind shall be erected within the Residential Properties, including any Unit if visible from outside the Unit, without the written consent of the Board of Directors or its designee, except signs installed by Declarant, the Residential Association or a builder (as long as the builder obtains the consent of the Declarant or the Board of Directors).

If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign together with any limitation of term for display of such approved sign. The Residential Association, acting through the Board of Directors and the Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Residential Properties shall be permitted to be displayed or posted within the Residential Properties. The Residential Association, acting through the Board, shall be authorized to enter upon any Unit and remove any sign, advertisement, billboard or other structure displayed in violation hereof, and in doing so shall not be subject to any liability for trespass or other tort in connection with or arising from such entry and/or removal.

Section 2. Parking and Prohibited Vehicles.

(a) Parking. Vehicles shall be parked only in the garage or driveway serving the Unit, or in such other paved areas as have been approved by the Board of Directors for parking vehicles. A maximum of two (2) occupant vehicles may be parked outside of the garage, if any, serving the Unit. For purposes of this provision, a vehicle shall be considered an "occupant vehicle" if it is parked on the Unit four (4) or more hours per each twenty-four (24) hour day, or four (4) or more days in any seven (7) day period. The Board of Directors may authorize on street parking for visitors and guests, subject to reasonable rules and regulations. Notwithstanding the foregoing, the Board may, but shall not be obligated to, allow Owners of a Townhouse to park one (1) "occupant vehicle" on the street adjacent to their Townhome and on the Townhome side of the street, subject to reasonable rules and regulations as may be promulgated by the Board of Directors from time to time. If the Board does allow parking pursuant to the previous sentence, the Board retains the right at anytime to revoke such parking rights. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally approved by the NCC unless alternative arrangements for enclosed parking are approved by the NCC; however, a builder may temporarily convert a garage into a sales or construction office, provided that it is converted back to a garage within thirty (30) days after cessation of construction and sale of new homes within the Residential Properties by such builder. Garage doors

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visible from any street within the Residential Properties shall remain closed except during ingress or egress or when the garage is actively being used by the Owner or occupant.

(b) **Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the Neighborhood Residential Association, if any, having jurisdiction over parking areas within a particular Neighborhood. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Residential Properties except within enclosed garages. Vehicles that become inoperable while on the Residential Properties must be removed within seventy-two (72) hours thereof. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or covered for fourteen (14) consecutive days without prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Residential Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article III, Section 21 of the By-Laws.

Section 3. **Occupants Bound.** All provisions of the Residential Declaration, By-Laws, any applicable Supplemental Declaration and any rules and regulations promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Units. Every Owner shall cause all occupants of his or her Unit to comply with the Residential Declaration, By-Laws, any applicable Supplemental Declaration and all rules and regulations of the Residential Association. Every Owner shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit may be fully liable for any violation of the Residential Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

Section 4. **Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Residential Properties, except that dogs, cats, or other usual and common household pets, not to exceed a total of two (2) pets, may be permitted in a Unit. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Residential Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Residential Properties shall be removed upon request of the Board. If the Owner fails to honor such request, the pet may be removed by

the Board. No pet shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person. Owners shall not excessively (in the Board's sole determination) feed wild birds, squirrels, raccoons or other wild animals so as to become a nuisance (in the Board's sole determination).

Section 5. **Quiet Enjoyment.** No portion of the Residential Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Residential Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Residential Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Residential Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Residential Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Residential Properties. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Unit. The use and discharge of firecrackers is prohibited within the Residential Properties.

Section 6. **Unsightly or Unkempt Conditions.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Residential Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

Section 7. **Antennas and Satellite Dishes.** No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any Unit, which are visible from any street or another Unit, unless it is impossible to receive an acceptable quality signal from any other location. In that event, the receiving device may be placed in the least visible location where reception of an acceptable quality signal is possible. The Board of Directors may require painting or screening of the receiving device, which painting or screening does not substantially interfere with an acceptable quality signal. In no event are the following devices permitted: (i) satellite dishes which are larger than one (1) meter in diameter; (ii) broadcast antenna masts

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which exceed the height of the center ridge of the roofline; or (iii) MMDS antenna masts, which exceed the height of twelve feet (12') above the center ridge of the roofline. Unless otherwise permitted by law negating the provisions of restrictive covenants to the contrary, no exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted, placed, allowed or maintained upon any Unit, which transmit television, radio, satellite or other signals of any kind. This section is intended to be in compliance with the Telecommunications Act of 1996 (the "Act"), as the Act may be amended from time to time; this section shall be interpreted to be as restrictive as possible, while not or violating the Act. The Board of Directors may promulgate guidelines which further define, restrict or elaborate on the placement and screening of receiving devices and masts, provided such guidelines are in compliance with the Act.

Section 8. **Clotheslines, Garbage Cans, Tanks, Etc.** No clotheslines shall be erected or installed on the exterior portion of any Unit and no clothing, linens or other material shall be aired or dried on the exterior portion of any Unit. All garbage cans, above-ground storage tanks, mechanical equipment, woodpiles, yard equipment and other similar items on Units shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Unit. Notwithstanding the foregoing, garbage cans and trash bags containing household trash may be placed along the curb of the Unit (but not in the street) for trash pick-up beginning at 7:00 p.m. on the night before the day of trash pick-up for such Unit and must be removed from public view by 7:00 p.m. of the day of trash pick-up for such Unit. Bagged grass clippings and tree or shrubbery debris may be placed along the curb of the Unit (but not in the street) for trash pick-up any time on the day before trash pick-up for such Unit but may not be placed along the curb of the Unit longer than one (1) day before the day of trash pick-up for such Unit. If trash (household, grass clippings tree debris or shrubbery debris) for any Unit is not removed on the scheduled day for trash pick-up for such Unit, the Owner of the Unit must promptly remove all garbage cans, trash bags, tree debris or shrubbery debris from public view. The Board, in its sole discretion may change the acceptable times and location for garbage cans, trash bags, tree debris or shrubbery debris set forth in this Section. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Residential Properties and shall not be allowed to accumulate thereon.

Section 9. **Subdivision of Unit and Time Sharing.** No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Residential Association. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant without such approval. In addition, the builder may replat any Unit or Units owned by the Builder with the prior written consent of the Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years, except that the Declarant hereby reserves the right for itself and its assigns to operate such a program with respect to Units which it owns.

Section 10. **Firearms.** The discharge of firearms within the Residential Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Residential Association shall not be obligated to take action to enforce this Section.

Section 11. **Pools.** No above-ground swimming pools shall be erected, constructed or installed on any Unit. In-ground swimming pools, spas, related equipment and attachments must be approved in writing in accordance with Article XI.

Section 12. **Irrigation.** No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, ponds, wetlands, canals or other ground or surface waters within the Residential Properties shall be installed, constructed, or operated within the Residential Properties, except that the Declarant and the Residential Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility. All sprinkler and irrigation systems servicing Units shall draw upon public water supplies only and shall be subject to approval in accordance with Article XI of this Declaration. Private irrigation wells are prohibited on the Properties. This Section 12 shall not apply to the Declarant, and it shall not be amended without Declarant's written consent so long as Declarant has the right to add property in accordance with Article VIII, Section 1.

Section 13. **Tents, Mobile Homes and Temporary Structures.** Except as may be permitted by the Declarant or the NCC during initial construction within the Residential Properties, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Unit or any part of the Residential Properties. The foregoing prohibition shall not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Unit, provided it receives the prior approval of the NCC or MC, as appropriate, in accordance with Article XI hereof. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

Section 14. **Drainage and Septic Systems.** Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Residential Association a perpetual easement across the Residential Properties for the purpose of altering drainage and water flow; provided, the exercise of such easement shall not materially diminish the value or interfere with the use of any adjacent property without the consent of the Owner thereof. Septic tanks and drain fields, other than those installed by or with the consent of the Declarant, are prohibited within the Residential Properties. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, sewer, stream, pond or lake within the Residential Properties.

Section 15. Tree Removal. No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XII hereof. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the committee having jurisdiction, to replace the removed tree with one (1) or more comparable trees in such size and number, and in such locations, as such committee may determine necessary, in its sole discretion, to mitigate the damage.

Section 16. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 17. Lighting. Except for traditional holiday decorative lights, which may be displayed for two (2) months prior to and end one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Article XI hereof.

Section 18. Artificial Vegetation, Exterior Sculpture, Flags and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Residential Properties. No exterior sculpture, fountains, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance with Article XI hereof.

Section 19. Energy Conservation Equipment. Unless otherwise allowed by applicable law, no solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Unit unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof. No windmills, wind generators or other apparatus for generating power from wind shall be erected or installed on any Unit.

Section 20. Wetlands, Rivers and Other Water Bodies. No use of the wetlands, rivers, ponds, streams, or other bodies of water within the Area of Common Responsibility, if any, including without limitation, fishing, swimming, boating, playing, or use of personal flotation devices, shall be permitted without the prior approval of the Board of Directors; provided, if any such use is permitted, it shall be subject to the Declarant's and the Association's superior use rights as provided below and to all rules and regulations that may be promulgated by the Board of Directors. No internal combustion engines shall be operated on any river, pond, or stream within the Area of Common Responsibility except by the Residential Association and/or the Declarant, for purposes of maintenances and irrigation. The Residential Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, ponds, streams or other bodies of water within or adjacent to the Residential Properties. No docks, piers, or other structures shall be constructed by the Declarant or the Residential Association.

Notwithstanding the foregoing, the Residential Association and the Declarant may use and regulate the use of any rivers, ponds, streams, wetlands or other bodies of water within the Area of Common Responsibility for the irrigation of the Area of Common Responsibility, or for any other purpose deemed appropriate by the Board or the Declarant, subject to the terms of any easement agreement affecting such use. The Declarant's right under this Section shall be superior to any rights of the Residential Association.

Section 21. Playground. No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Unit without prior written approval of the MC in accordance with Article XI hereof. Any playground or other play areas or equipment furnished by the Residential Association or erected within the Residential Properties shall be used at the risk of the user, and the Residential Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 22. Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Unit except as approved in accordance with Article XI hereof.

Section 23. Business Use. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Unit.

The term "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) license is required therefor. Notwithstanding the above, the leasing of a Unit 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 conducted by a builder with approval of the Declarant, with respect to the development and sale of the Residential Properties or the use of any Units which Declarant owns within the Residential Properties, including the operation of a timeshare or similar program.

Section 24. On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Residential Properties except that up to five (5) gallons of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Residential Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 25. Leasing of Units.

(a) Definition. "Leasing", for purposes of this Section, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) Leasing Provisions.

(i) General. Units may be rented only in their entirety; no fraction or portion may be rented. All leases shall be in writing and shall be for an initial term of not less than thirty (30) days, except with the prior written consent of the Board of Directors. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of this Residential Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

(ii) Compliance with Residential Declaration, By-Laws and Rules and Regulations. Every Owner shall cause all occupants of his or her Unit to comply with the Residential Declaration, By-Laws, any applicable Supplemental Declaration, and the rules and regulations adopted pursuant to the foregoing, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any such violation.

Section 26. Laws and Ordinances. Every Owner and occupant of any Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Residential Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 27. Single Family Occupancy. No Unit shall be occupied by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption or marriage living with not more than one (1) person who is not so related as a single household unit, or no more than (2) persons who are not related living together as a single household unit, and the household employees of either such household unit.

Section 28. Water and Mineral Operations. No oil or water drilling, oil or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted on any Unit. No derrick or other structure designed for use in boring for water, oil, natural gas, or other minerals shall be erected and maintained or permitted on any Unit. Nothing in this Section shall be construed to prohibit use of Common Areas for any of the foregoing activities, or for access, ingress and egress in connection with such activities to the extent that such rights were reserved prior to conveyance by Declarant of the Common Areas.

Section 29. Doors and Windows. No "burglar bars," steel or wrought iron bars, or similar fixtures, whether designed for decorative, security or other purposes, shall be installed on the exterior of any windows or doors of any dwelling. No signs, numerals or other writing shall be written on or placed in the doors, windows or exterior walls of any dwelling, either temporarily or permanently, except that the Board may, in its discretion, permit house numbers to be written temporarily on a single window of a dwelling while occupants are moving in,

provided such numbers are removed within seventy-two (72) hours after the occupants have taken occupancy. All windows of an occupied dwelling on a Unit which are visible from the street or other Units shall have draperies, curtains, blinds or other permanent interior window treatments, and all portions thereof which are visible from the street or other Units shall have draperies, curtains, blinds or other permanent interior window treatments, and all portions thereof which are visible from outside the dwelling shall be white or off-white in color, unless otherwise approved in writing by the Board. Sheets or similar temporary window treatments may be used for a short time after taking occupancy of a dwelling, provided they are removed and replaced with permanent window treatments within a reasonable time after taking occupancy of the dwelling, as determined in the sole discretion of the Board of Directors.

Section 30. **Zero Lot Line Option.** With respect to any Neighborhood where Units are designated for use as "patio homes" or "zero lot line homes" by its applicable, recorded plat, replat or Supplemental Declaration the provisions of (a) and (b) below shall apply. For purposes of this Section 30, the term "lot" means and refers to individual Units contained within a Neighborhood designated for patio or zero lot line residential use.

(a) **Placement.** The front building setback line shall be as hereinabove required. Each residence dwelling shall be designed so as to provide that a minimum of fifty percent (50%) of the linear distance of one (1) wall of the residence structure shall be constructed adjacent to and abutting, a side lot line. Such side lot line where there is such construction shall be hereinafter referred to as the "Zero Lot Line". Provided however, that an open court or patio may be built adjacent and abutting the aforementioned Zero Lot Line, but said open court or patio must be enclosed by a masonry or wood wall having a minimum height of eight (8) feet. This wall must, as is the case with the residence wall, be constructed adjacent to the abutting Zero Lot Line and enclose the court or patio in such a manner as to appear to be an extension of the residence dwelling. Except for gas and/or electric utility meters, the Zero Lot Line walls shall have no exterior objects or appurtenances such as vents and plumbing clean-outs, windows or openings of any kind unless such Zero Lot Line side is on the street side of a corner lot. If the Zero Lot Line side is on the street side of a corner lot, normal openings and exterior appurtenances may be constructed on the dwelling abutting the Zero Lot Line. Provided, however, the roof overhang and the attached guttering of the Zero Lot Line dwelling may extend and encroach over the Zero Lot Line for a distance not to exceed twenty-four (24) inches. There is hereby established a five (5) foot minimum distance between the Zero Lot Line dwelling and the closest wall of the residence dwelling situated upon the adjoining Lot; however, the minimum distance between the roof of the dwelling located upon the Zero Lot Line and the roof of the dwelling situated upon the adjoining Lot shall be four (4) feet. No dwelling shall be located on any Lot within any Utility Easement along the rear lot line.

(b) **Zero Lot Line Access Easement.** Each lot shall have a five (5) foot access easement extending the entire depth of the lot From front to back abutting and parallel to the Zero Lot Line wall, over, on and across the adjacent lot, for the construction, repair and maintenance of Improvements located on the Zero Lot Line. Conditions and use of the Zero Lot

Line Access Easement are hereby declared and established by and between the owner of the Zero Lot Line lot and the owner of the adjacent lot, which shall be covenants running with the land and binding both of the above mentioned owners and all of the respective heirs and assigns forever; to-wit:

(i) The Zero Lot Line lot owner must replace any fencing, landscaping or other items on the adjacent lot that he may disturb during construction, repair or maintenance.

(ii) This easement, when used by the Zero Lot Line lot owner for such construction, repair or maintenance, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced.

(iii) The Zero Lot Line lot owner must notify the owner of the adjacent lot of his intent to do any construction, repair or maintenance upon the Zero Lot Line wall at least twenty-four (24) hours prior to starting any work, with the hours that such access easement may be utilized being between 8:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. through 6:00 p.m. on Saturday.

(iv) Both the Zero Lot Line lot owner and the adjacent lot owner shall have the right of surface drainage over, along and upon the access easement area. Neither owner shall use the access easement area in such a manner as will interfere with such drainage.

(v) Neither owner shall attach any object to the Zero Lot Line wall, facing, onto the access easement area and the owner of the adjacent lot will not use the Zero Lot Line wall as a playing surface for any sport. In addition, no structure shall be constructed or placed upon the access easement area by either owner, except the roof overhand and guttering as provided for above, and a fence by the owner or the adjacent lot, which allows drainage; however, access to the access easement must be preserved for the owner of the Zero Lot Line lot.

Section 31. "Townhouse Option". With respect to each Townhouse Lot, the provisions of (a) and (b) below shall apply.

(a) Placement. The slab of each Townhouse constructed on a Townhouse Lot may occupy the entire lot so that there is one slab foundation for each townhouse lot group; the roof overhang and guttering for each Townhouse, may overhang the front of the platted lot a distance not to exceed twelve (12) inches; and the roof overhang and guttering for the outside Townhouse on each townhouse lot group may overhang the adjacent Common Area a distance not to exceed twelve (12) inches.

(b) Party Walls. Each wall or foundation of a Townhouse that is built as part of the original construction of residence dwellings on the Townhouse Lots and placed on the dividing line between the Townhouse Lots, shall constitute a party wall (herein referred to as a "Party Wall"). The following rules and requirements shall apply to Party Walls:

(i) To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

(ii) The cost of repair and maintenance of a Party Wall shall be shared by each Owner who makes use of the Party Wall in proportion to such use.

(iii) If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall may restore the same, and if the other Owner thereafter makes use of the Party Wall, such other Owner shall contribute to the cost of restoration thereof in proportion to such use (it being agreed that a Party Wall separating two (2) Units shall be deemed to be used fifty percent (50%) by the Owner of each of such Units); provided, however, nothing herein shall prejudice the right of any such Owner to obtain a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

(iv) Notwithstanding any other provisions of this Section, an Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection.

(v) The rights of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

(vi) In the event of any dispute arising concerning a Party Wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be settled by a majority of all the arbitrators.

Section 32. **Composite Building Site.** Any one or more adjoining Units (or portions thereof) which have been consolidated prior to the date of this Declaration into one building site shall have side set-back lines along the common lot lines eliminated and said set-back lines shall thereupon be measured from the resulting side property lines rather than from the center adjacent lot lines as indicated on the recorded plat of the Residential Properties. Any such composite building site must have a front building set-back line of not less than the minimum front building setback line of all Units in the same block. For purposes of the Base Assessments, Neighborhood Assessments, Special Assessment and other assessments set forth in Article X hereof, such composite building site will be assessed by the number of Units and/or portions of Units as shown on the Master Plan, contained within such composite building site.

ARTICLE XIII

General Provisions

Section 1. **Terms.** The covenants and restrictions of this Declaration shall inure to the

benefit of and shall be enforceable by the Residential Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of forty (40) years from the date this Residential Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by Owners representing a majority of the total Class "A" votes in the Residential Association has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. The Declarant may unilaterally amend this Residential Declaration at anytime, in Declarant's sole discretion.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least fifty-one (51%) percent of the total Class "A" votes in the Residential Association, and the consent of the Class "B" Member, so long as such membership exists. Notwithstanding the above, the percentage of votes or other approval necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes or other approval required for action to be taken under that clause, and no amendment hereto which affects the responsibilities of the Residential Association under the Covenants shall be effective unless approved in the same manner and by the same approval requirements as set forth in the Covenants for amendment of that instrument. Any amendment to be effective must be recorded in the real property records of Harris County, Texas.

If an Owner consents to any amendments to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" member without the written consent of Declarant, the Class "B" member, or the assigns of such right or privilege, respectively.

Sections 3. Indemnification. The Residential Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member to the fullest extent permitted by Chapter 8 of the Texas Business Organizations Code, as amended from time to time.

Section 4. Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any part of the Residential Properties, the Residential Association, and the designees of each (which may include, without limitation, Harris County, Texas and any

utility) access and maintenance easements upon, across, over, and under all of the Residential Properties to the extent reasonably necessary for the purposes of replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Residential Properties. Notwithstanding anything to the contrary herein, this easement does not authorize the construction or installation of any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier easements across all the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters and boxes; provided, the exercise of this easement shall not extend to permitting entry into the dwelling on any Unit. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Residential Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to Harris County, Texas, or to any other local, state, or federal governmental entity.

Section 5. **Easements for River and Pond Maintenance and Flood Water**. Declarant reserves for itself and its successors, assigns, and designees the non-exclusive right and easement, but not the obligation, to enter upon the rivers, ponds, streams, and wetlands located within the Area of Common Responsibility (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any portion of the Area of Common Responsibility, (b) to construct, maintain and repair any wall, dam, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall be transferred to the Residential Association at such time as Declarant shall cease to own property subject to this Declaration, or such earlier time as Declarant may decide, in its sole discretion, and transfer such rights by a written instrument. The Declarant, the Residential Association, and their designees shall have an access easement over and across any of the Residential Properties abutting or containing any portion of any of the rivers, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights and responsibilities under this Section.

There is further reserved, for the benefit of Declarant, the Residential Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Units (but not the dwellings thereon) adjacent to or within fifty (50) feet of

river banks, ponds and streams within the Residential Properties, in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Residential Properties; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the ponds, streams and wetlands within the Area of Common Responsibility; (c) to maintain and landscape the slopes and banks pertaining to such rivers, ponds, streams and wetlands; and (d) to enter upon and across such portions of the Residential Properties for the purpose of exercising its or their rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural disasters.

Section 6. **Easements to Serve Additional Property.** The Declarant and its duly authorized agents, representatives, and employees, as well as its successors, assigns, and licensees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of the property adjacent to the Residential Properties and owned by the Declarant, whether or not such property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities on the property adjacent to the Residential Properties and owned by the Declarant.

Declarant agrees that it, its successor or assigns, shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of the property. Declarant further agrees that if the easement is exercised for permanent access to the property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Residential Association to share the cost of maintenance of any access roadway serving the property. Such agreement shall provide for sharing of costs based on the ratio which the number of residential dwellings on that portion of the property which is served by the easement and is not made subject to this Declaration bears to the total number of residential dwellings within the Residential Properties.

Section 7. **Easement in Favor of the Residential Association for Landscaping, Maintenance, and Repair.** A non-exclusive access easement upon, across, over and under all of the Residential Property is hereby granted to the Residential Association for the purposes of installing, maintaining, repairing, and replacing the TH Exterior Improvements, the Townhome Unit Landscaping, any perimeter fence or wall or perform any other actions of the Residential Association hereunder or the repairing, replacing or reconstructing a Unit or Units within a TH Neighborhood in the event of a claim made by the Residential Association on any insurance policy covering such Unit or Units.

In addition, Declarant hereby reserves for itself and for the Residential Association, a non-exclusive right-of-way and easement for the purpose of constructing, maintaining, operating, repairing, removing and re-constructing a perimeter fence or wall under, across and through a 5' strip of the perimeter Units which are located along the perimeter of the Properties (such 5' strips being located upon such Units and being immediately adjacent to the perimeter of the Properties) and such other locations as determined by Declarant or the

Residential Association, on which 5' strips the Declarant or the Residential Association may construct such perimeter fencing. Prior to the construction of the fence or wall, the Declarant and/or the Residential Association shall have the right to go over and across the portions of the Units which are adjacent to such 5' easement strips for the purpose of performing surveys and other such necessary pre-construction work. After the construction of the fence or wall, Declarant and/or the Residential Association, from time to time, and at any time, shall have a right of ingress and egress over, along, across and adjacent to said 5' easement strips for purposes of maintaining, operating, repairing, removing, re-constructing, and/or inspecting the fence or wall. The Owners of the Units shall have all other rights in and to such 5' easement strip located on each Owner's respective Units; provided however, such Owner shall not damage, remove or alter the fence or wall or any part thereof without first obtaining written approval from the Declarant and/or the Residential Association with respect to any such action, such approval to be at the Declarant's and/or the Residential Association sole discretion.

Section 8. **Severability.** Invalidation of any one of the covenants or restrictions in this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 9. **Right of Entry.** The Residential Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article IV hereof, and to inspect for the purpose of ensuring compliance with this Declaration, the By-Laws, any Supplemental Declaration, and the rules of the Residential Association; provided, nothing herein shall authorize any person to enter any dwelling or other building constructed on a Unit without permission of the Owner unless reasonably believed to be necessary to avoid an imminent threat of personal injury or property damage. This right may be exercised by the Association's Board of Directors, any agent or employee of the Residential Association acting with the authorization of the Board of Directors, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Residential Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after the request by the Board.

Section 10. **Perpetuities.** If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 11. **Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Residential Association unless approved by a vote of seventy-five (75%) percent of the Board of Directors (excluding the directors appointed by the Declarant or the Builder). This Section shall not apply, however, to (a) actions brought by the Residential Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, (d) the defense of and

counterclaims brought by the Residential Association in proceedings instituted against it, or (e) the appeal of any adverse ruling in a proceeding sanctioned pursuant to this Section or to which this Section does not apply.

Section 12. **Cumulative Effect; Conflict.** The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Neighborhood and the Residential Association may, but shall not be required to, enforce the covenants, conditions and provisions or any Neighborhood, provided, however, in the event of conflict between or among such covenants and restrictions, provisions of any certificate of formation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Neighborhood shall be subject and subordinate to those of the Residential Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Residential Association.

Section 13. **Compliance.** Every Owner and occupant of any Unit shall comply with all lawful provisions of this Declaration, the By-Laws, and the rules and regulations of the Residential Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Residential Association or, in a proper case, by any aggrieved Unit Owner or Owners. In addition, the Residential Association may avail itself of any and all remedies provided in this Declaration or the By-Laws.

Section 14. **Security.** The Residential Association may, but shall not be obligated to, maintain or support certain activities within the Residential Properties designed to make the Residential Properties safer than they otherwise might be. NEITHER THE RESIDENTIAL ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE RESIDENTIAL PROPERTIES, HOWEVER, AND NEITHER THE RESIDENTIAL ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNITS, TENANTS, GUESTS, AND INVITEES OF ANY OWNERS, AS APPLICABLE, ACKNOWLEDGE THAT THE RESIDENTIAL ASSOCIATION, ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE NEW CONSTRUCTION AND MODIFICATIONS COMMITTEES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE NEW CONSTRUCTION OR MODIFICATIONS COMMITTEES MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR

INTENDED. EACH OWNER AND OCCUPANT OF ANY UNIT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE RESIDENTIAL ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, THE RESIDENTIAL ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 15. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Unit, such Owner shall give the Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. The transferor shall be responsible for all obligations of the Owner of the Unit coming due prior to the date upon which such notice is received by the Board of Directors, including payment of assessments, notwithstanding the transfer of title to the Unit.

ARTICLE XIV

Declarant's Rights

Any or all of the special rights and obligations of the Declarant set forth in this Residential Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the By-Laws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the real property records of Harris County Texas. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any other property in any manner whatsoever.

Notwithstanding any provisions contained in this Residential Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant and any builder designated by Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs,

model units, and sales offices, and the Declarant and such designated builder(s) shall have easements for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by the Declarant and any clubhouse or community center which may be owned by the Residential Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this Residential Declaration, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Residential Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Residential Declaration may not be amended without the express written consent of the Declarant; provided, however, the Declarant rights contained in this Residential Declaration shall terminate upon the earlier of (a) twenty-six (26) years from the date this Residential Declaration is recorded, or (b) upon recording by Declarant of a written statement relinquishing such rights.

EXECUTED in multiple copies on the date of the acknowledgments set forth below, to be effective as of the date first written above.

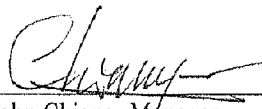
SUEBA:

SUEBA 350 LP,
a Texas limited partnership

3OR

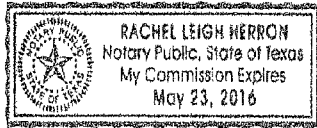
By: NOBA 350 LLC, a
Texas limited liability company, its
General Partner

By:


John Chiang, Manager

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 31st day of January, 2014, by John Chiang, the Manager of NOBA 350 LLC, a Texas limited liability company, General Partner of SUEBA 350 LP, a Texas limited partnership, on behalf of said entities.



Rachel R. Herron
NOTARY PUBLIC, State of Texas

ER 053 - 65 - 0214

LIENHOLDER'S CONSENT AND SUBORDINATION

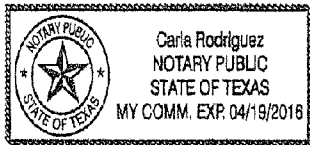
AMEGY BANK joins herein for the sole purpose of subordinating any and all of the liens it holds on the Properties to the covenants, conditions, restrictions and easements hereby imposed by SUEBA 350 LP, a Texas limited partnership as Declarant with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

AMEGY BANK

By: Natalie Miller
Name: Natalie S. Miller
Title: Vice President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 31 day of January, 2014, by Natalie Miller, the Vice President of AMEGY BANK, on behalf of said entity.



AFTER RECORDING, RETURN TO:

Mark K. Knop
Hoover Slovacek, LLP
5847 San Felipe, Suite 2200
Houston, Texas 77057

EXHIBIT "A"

THE PARKWAY SEC. 1
30.67 ACRES
PLAT BOUNDARY

NOVEMBER 20, 2012
JOB NO. 1636-00

DESCRIPTION OF A 30.67 ACRE TRACT OF LAND SITUATED
IN THE JOEL WHEATON SURVEY, ABSTRACT NO. 80
CITY OF HOUSTON
HARRIS COUNTY, TEXAS

BEING a 30.67 acre (1,335,926 square feet) tract of land situated in the Joel Wheaton Survey, Abstract No. 80, City of Houston, Harris County, Texas and being all of a called 3.4341 acre tract of land described in an instrument to Eldridge-Rincon Development, Ltd filed for record under Harris County Clerk's File (H.C.C.F.) No. Z0234145, all of a called 3.4341 acre tract of land described in an instrument to H. Wayne Martin filed for record under H.C.C.F. No. V374135, a portion of a called 4.0403 acre tract of land described in an instrument to Westheimer BPI Ltd. filed for record under H.C.C.F. No. Z167404, a portion of a called 8.211 acre tract of land described in an instrument to Eldridge-Rincon Development, Ltd filed for record under H.C.C.F. No. Z023414, a portion of a called 18.4965 acre tract of land described in an instrument to Sueba Investments No 305, Ltd. filed for record under H.C.C.F. No. V502562, a portion of a called 2.9313 acre tract of land described in an instrument to Eldridge-Rincon Development, Ltd. filed for record under H.C.C.F. No. Z195460 and all of a called 8.2113 acre tract of land described in an instrument to H. Wayne Martin filed for record under H.C.C.F. No. Y751625, said 30.67 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8-inch iron rod with cap stamped "EHRA 713-784-4500" found for the Northeast corner of said 3.4341 acre tract in the West line of Rorick Place, a subdivision plat filed for record under Film Code 468117 of the Harris County Map Records (H.C.M.R.), same being the Southeast corner of a called 1.0000 acre tract described in an instrument filed for record under H.C.C.F. No. U668014;

THENCE, S 02° 07' 56" E, a distance of 287.70 feet along the West line of said Rorick Place and the West line of Eldridge Land, L.L.C, a subdivision plat filed for record under Film Code 456014, H.C.M.R. to a 5/8-inch iron rod found for the Southeast corner of said 3.4341 acre Eldridge-Rincon tract in the North line of Eldridge Apartments, a subdivision plat filed for record under Film Code 522292 H.C.M.R.;

THENCE, S 87° 32' 02" W, a distance of 520.69 feet along the North line of said Eldridge Apartments and the South line of said 3.4341 acre Eldridge-Rincon tract to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the Southwest corner of said 3.4341 acre tract, the Northwest corner of said Eldridge Apartments and being in the East line of said 8.2113 acre tract;

THENCE, S 02° 04' 17" E, a distance of 573.71 feet along the West line of said Eldridge Apartments and the East line of said 8.2113 acre tract to a "Mag" nail set for the Southwest corner of said Eldridge Apartments, same being the Northwest corner of said Martin 3.4341 acre tract, from which a found nail & shiner bears N 43° 56' W, 1.17-feet;

THENCE, N 87° 32' 02" E, a distance of 521.29 feet along the South line of said Eldridge Apartments and the North line of said Martin 3.4341 acre tract to a 1/2-inch iron rod found for the Northeast corner of said Martin 3.4341 acre tract and being in the West terminus of Rincon Drive, (60-foot width) as shown on the plat filed for record under Film Code 408056, H.C.M.R.;

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THENCE, S 02° 07' 48" E, a distance of 286.10 feet along the East line of said Martin 3.4341 acre tract and the West line of Restricted Reserve "A" of Concierge Care Partial Replat, a subdivision plat filed for record under Film Code 421008 H.C.M.R. to a 5/8-inch iron rod found for the Southeast corner of said Martin 3.4341 acre tract and the Northeast corner of said Southern Star Concrete 3.4341 acre tract;

THENCE, S 87° 31' 32" W, a distance of 521.58 feet along the South line of said Martin 3.4341 acre tract and the North line of said 3.4341 acre Southern Star Concrete, Inc. tract to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the Southwest corner of said Martin 3.4341 acre tract, the Northwest corner of said Southern Star Concrete 3.4341 acre tract and being in the East line of said 8.211 acre tract;

THENCE, S 02° 04' 17" E, a distance of 579.26 feet along the East line of said 8.211 acre tract, the West line of said South Star Concrete, Inc. 3.4341 acre tract and the West line of a called 3.433 acre tract described in an instrument filed for record under H.C.C.F. No. N112718 to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the Southeast corner of said 8.211 acre tract and the Northeast corner of said called 4.0403 acre tract;

THENCE, S 04° 05' 23" E, a distance of 27.97 feet along an East line of said 4.0403 acre tract and the West line of said 3.433 acre tract to a "Mag" nail found for the Southwest corner of said 3.433 acre tract and the Northwest corner of a called 3.59 acre tract of land described in an instrument filed for record under H.C.C.F. No. 20100549644, same being an angle point in the East line of said 4.0403 acre tract;

THENCE, S 01° 59' 03" E, a distance of 102.53 feet along the East line of said 4.0403 acre tract and the West line of said 3.59 acre tract to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the Southeast corner of the herein described 30.67 acre tract;

THENCE the following courses and distances over and across said 4.0403 acre tract, said 8.211 acre tract, said 18.4965 acre tract and said 2.9313 acre tract:

S 88° 00' 57" W, a distance of 30.23 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 84° 00' 48" W, a distance of 117.30 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 00° 04' 43" W, a distance of 80.87 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 08° 33' 18" W, a distance of 68.59 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 09° 53' 21" W, a distance of 60.00 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 08° 54' 26" W, a distance of 57.51 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

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N 05° 49' 04" W, a distance of 57.82 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 02° 40' 39" W, a distance of 57.82 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 00° 27' 47" E, a distance of 57.81 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 86° 52' 51" W, a distance of 120.00 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a non-tangent curve to the left having a center which bears S 87° 51' 22" E, 1,175.00 feet;

In a Southerly direction, along said curve to the left, a distance of 2.06 feet, having a radius of 1,175.00 feet, a central angle of 00° 06' 02" and a chord which bears S 02° 05' 37" W, 2.06 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 87° 57' 24" W, a distance of 50.00 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a non-tangent curve to the left having a center which bears N 87° 57' 24" W, 25.00 feet;

In a Northwesterly direction, along said curve to the left, a distance of 38.27 feet, having a radius of 25.00 feet, a central angle of 87° 42' 27" and a chord which bears N 41° 48' 38" W, 34.64 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set a point of tangency;

N 85° 39' 51" W, a distance of 91.44 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 04° 20' 09" W, a distance of 85.69 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 01° 59' 43" E, a distance of 75.59 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 05° 12' 57" E, a distance of 75.60 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 08° 25' 59" E, a distance of 75.60 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 10° 02' 49" E, a distance of 70.00 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

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S 06° 16' 30" E, a distance of 60.76 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 16° 21' 17" W, a distance of 60.34 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 40° 13' 21" W, a distance of 51.30 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 62° 07' 47" W, a distance of 51.30 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 83° 25' 53" W, a distance of 60.16 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 87° 27' 48" W, a distance of 20.00 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 88° 18' 00" W, a distance of 60.01 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

N 02° 32' 12" W, a distance of 16.30 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 88° 18' 00" W, a distance of 285.87 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner in the West line of said 18.4965 acre tract and the East line of a called 21.8525 acre tract described in an instrument filed for record under H.C.C.F. No. 20110402697;

THENCE, N 01° 42' 00" W, a distance of 600.45 feet along the West line of said 18.4965 acre tract and the East line of said 21.8525 acre tract to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

THENCE the following courses and distances over and across said 18.4965 acre tract:

N 88° 18' 00" E, a distance of 194.38 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a non-tangent curve to the right having a center which bears S 85° 52' 12" E, 1,655.00 feet;

In a Northerly direction, along said curve to the right, a distance of 58.33 feet, having a radius of 1,655.00 feet, a central angle of 02° 01' 10" and a chord which bears N 05° 08' 22" E, 58.33 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

S 83° 51' 03" E, a distance of 50.00 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a non-tangent curve to the left having a center which bears S 83° 51' 03" E, 25.00 feet;

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In a Southeasterly direction, along said curve to the left, a distance of 40.06 feet, having a radius of 25.00 feet, a central angle of $91^{\circ} 48' 49''$ and a chord which bears $S 39^{\circ} 45' 27'' E$, 35.91 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for a point of tangency;

$S 85^{\circ} 39' 51'' E$, a distance of 94.22 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

$N 07^{\circ} 30' 10'' E$, a distance of 108.66 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

$N 11^{\circ} 16' 17'' E$, a distance of 181.65 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

$N 04^{\circ} 07' 09'' W$, a distance of 147.37 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

$N 27^{\circ} 26' 23'' W$, a distance of 135.27 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

$N 82^{\circ} 58' 33'' W$, a distance of 19.34 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner;

$S 52^{\circ} 01' 28'' W$, a distance of 110.00 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a non-tangent curve to the left having a center which bears $S 52^{\circ} 01' 28'' W$, 275.00 feet;

In a Northwesterly direction, along said curve to the left, a distance of 168.90 feet, having a radius of 275.00 feet, a central angle of $35^{\circ} 11' 27''$ and a chord which bears $N 55^{\circ} 34' 16'' W$, 166.26 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for a point of tangency;

$N 73^{\circ} 09' 59'' W$, a distance of 30.88 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for the beginning of a tangent curve to the right;

In a Northwesterly direction, along said curve to the right, a distance of 35.70 feet, having a radius of 25.00 feet, a central angle of $81^{\circ} 49' 14''$ and a chord which bears $N 32^{\circ} 15' 22'' W$, 32.74 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for a point of compound curvature;

In a Northerly direction, along a curve to the right, a distance of 1.54 feet, having a radius of 370.00 feet, a central angle of $00^{\circ} 14' 21''$ and a chord which bears $N 08^{\circ} 46' 25'' E$, 1.54 feet to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for corner in the South line of Lakes of Parkway Sec. 17, a subdivision plat filed for record under Film Code 563202 H.C.M.R.

A THE PARKWAY SEC. 1
30.67 ACRES
PLAT BOUNDARY

NOVEMBER 20, 2012
JOB NO. 1636-00

THENCE, N 87° 24' 19" E, a distance of 430.51 feet along a South line of said Lakes of Parkway Sec. 17 and the South line of Lakes of Parkway Sec. 14, a subdivision plat filed for record under Film Code 540188 H.C.M.R. to a 1/2-inch iron pipe with cap stamped "Brown & Gay" set for a Southeast corner of said Lakes of Parkway Sec. 14, the Northeast corner of said 18.4965 acre tract and being in the West line of said 8.2113 acre tract;

D

THENCE, N 02° 05' 46" W, a distance of 515.73 feet along the West line of said 8.2113 acre tract and the East line of said Lakes of Parkway Sec. 14 to a 5/8-inch iron rod found for the Northwest corner of said 8.2113 acre tract and the Southwest corner of San Brisas Apartments Replat No. 1, a subdivision plat filed for record under Film Code 571150 H.C.M.R.

THENCE, N 87° 55' 42" E, a distance of 448.11 feet along the North line of said 8.2113 acre tract and the South line of San Brisas Apartments Replat No. 1 to a 5/8-inch iron rod found for the Northeast corner of said 8.2113 acre tract, the Southeast corner of said San Brisas Apartments Replat No. 1 and being in the West line of said Eldridge-Rincon 3.4341 acre tract;

THENCE, N 02° 04' 17" W, a distance of 136.30 feet along the East line of said San Brisas Apartments Replat No. 1 and the West line of said Eldridge-Rincon 3.4341 acre tract to a 5/8-inch iron rod with cap stamped "EHRA 713-784-4500 found for the Northwest corner of said Eldridge-Rincon 3.4341 acre tract and the Southwest corner of said 1.0000 acre tract;

THENCE, N 87° 29' 27" E, a distance of 520.39 feet along the North line of said Eldridge-Rincon 3.4341 acre tract and the South line of said 1.000 acre tract to the POINT OF BEGINNING and containing 30.67 acres (1,335,926 square feet) of land.

Bearing orientation is based on the Texas State Plane Coordinate System, South Central Zone 4204, NAD-83.

TITLE REPORT (PRELIMINARY)

The above description is for the purpose of securing a title report and is not to be used as fee conveyance



Larry E. Grayson
Larry E. Grayson RPLS No. 5071
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
Telephone: (281) 558-8700

ER 053 - 65 - 0221

ER 053 - 65 - 0222

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Pages 67
02/04/2014 09:20:07 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees 276.00

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