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**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS**

**FOR**

**INDIAN SPRINGS, PHASE 1**

**CITY OF GROVES, JEFFERSON COUNTY, TEXAS**

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**CITY OF GROVES, JEFFERSON COUNTY, TEXAS**

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## INDIAN SPRINGS, PHASE I

THE STATE OF TEXAS       §  
  §       KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF JEFFERSON    §

WHEREAS, This Declaration of Covenants, Conditions, and Restrictions is made on August 29, 2018, by Indian Springs Homeowner's Association, a Texas nonprofit corporation, hereinafter referred to as either "the Declarant" or "the Developer", being one and the same, is the owner of all of that certain real property located in Jefferson County, Texas, described as follows:

All of Lots 36-38, Block 1, Lots 22-37, Block 2, Lots 1-25, Block 3 of the Final Plat of Indian Springs Phase I containing 0.8444 acres in common area, 3.4435 acres in private drive, an addition to the City of Groves, Jefferson County, Texas, being more fully described by metes and bounds on the Plat, together with additions thereto as may be made subject to the terms of this Declaration and any Supplemental Declaration of Covenants executed and filed, from time to time, by Declarant in the Official Public Records of Jefferson County Texas, for which a plat has been approved and filed, for a subdivision known as Indian Springs, a subdivision in Groves, Jefferson County, Texas. The Plat has been filed under Clerk's file No. 201811003 official public records of Jefferson County, Texas, to which reference is hereby made for all purposes ("Property"); and

WHEREAS, The Declarant has devised a general plan for the Property as a whole, with specific provisions for particular parts and parcels of the Property. This general plan provides a common scheme of development designed to protect and safeguard the Property over a long period. This general plan will benefit the Property in general, the parcels and lots that constitute the Property, the Declarant, and each successive owner of an interest in the Property; and

WHEREAS, Declarant desires to create a residential community on the Property with residential lots and improvements, including Common Property for the benefit of Declarant and each successive Owner of the Property and to provide for the efficient preservation of the values and enjoyment of the amenities within the Property and for the maintenance of Common Property, as a part of the general plan of development Declarant desires to impose upon the Property the covenants, conditions, restrictions easements, charges, and liens contained in this Declaration and to create the Association to which will be delegated and assigned the power of maintaining and administering the Property and Common Property in accordance with the terms of this Declaration; and

WHEREAS, Declarant has formed a non-profit corporation known as "Indian Springs Homeowners' Association" (the "Association") under the Nonprofit Corporation Act of the State of Texas (the "Act"); and

WHEREAS, the Declarant have or will convey the above described properties in accordance with both the doctrines of restrictive covenant and implied equitable servitude; and

WHEREAS, the Declarant desires to restrict the Property according to these covenants, conditions, and restrictions in furtherance of this general development plan as hereinafter set forth;

NOW, THEREFORE, it is hereby declared that all of the property described above 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 above described real property, and shall be binding on all parties having any right, title or interest in or to the above described properties or any part thereof, their heirs, successors, and assigns, and which easements, restrictions, covenants, and conditions shall inure to the benefit of each owner thereof.

## ARTICLE I DEFINITIONS

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

*"Architectural Control Committee"* means the Architectural Committee described in Article IX of this Declaration.

*"Assessment"* means the regular annual assessments, special assessments, and default assessments levied by the Association as determined by the Board of Directors.

*"Association"* means Indian Springs Homeowners' Association, a Texas nonprofit corporation, its successors and assigns, which shall have the duty of maintaining, operating, and managing the Common Area as provided in this Declaration.

*"Board of Directors"* or *"Board"* means the governing body of the Association, the election and procedures of which are set forth in the articles of incorporation and the bylaws of the Association.

*"Builder"* means any person or entity that (1) is actively engaged in the business of building homes for sale to third parties, (2) has acquired a Lot or Lots for the purpose of constructing Dwelling Unit(s) for sale to third parties, and (3) has constructed and sold at least two single family residences in the prior twelve (12) months.

*"Common Area"*, *"Common Property"* means the portions of the Property, including any improvements thereon and any appurtenances thereto, that is held, managed or owned by the Association for common use and enjoyment.

*"Declarant"* is the party who causes the Property to be developed for residential use and shall mean and refer to Indian Springs ACH, LLC, its successors and assigns. However, as used in this section, the term "assigns" shall not be construed to mean, refer to or include any person or entity which shall acquire one (1) or more of the Lots in the Addition, whether improved or unimproved, for occupancy or resale, unless

the said Indian Springs ACH, LLC, or its successor, shall expressly assign unto such assignee all of its rights and privileges as "Declarant" under the Declaration.

"*Declaration*" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of Indian Springs a subdivision and addition to the City of Groves, Jefferson County, Texas, as recorded in the Official Public Records of Real Property of Jefferson County, Texas, together with any Supplemental Declaration(s) hereafter filed of record in the same office by Declarant, its successors or assigns, for the purpose of bringing additional property within the scheme of the Declaration and within the jurisdiction of the Association, as provided in this Declaration.

"*Developer*" shall mean and refer to Indian Springs ACH, LLC, a Texas limited liability company, and its successors and assigns.

"*Development Period*" shall have the same meaning as prescribed in Section 209 of the Texas Property Code, Texas Residential Property Owners Protection Act, such being the period in which Declarant reserves: (a) a right to facilitate the development, construction, and marketing of the subdivision; or (b) a right to direct the size, shape, and composition of the subdivision. Declarant enjoys special privileges to help protect its investment and the overall developmental plan of the Property which are described in this Declaration. Many of these rights do not terminate until either Declarant: (i) has sold all Lots which may be created out of the Property; or (ii) voluntarily terminates these rights by a written instrument recorded in the Official Records of Jefferson County, Texas.

"*Dwelling Unit*", "*Dwelling*" means any building or portion of a building, situated upon a Lot or Lots, designed and intended for use and occupancy as a residence by a single person, a couple, a family, or a permitted family-size group of persons.

"*Front Yard*" shall mean and refer to a space on the lot facing a Street (as hereinafter defined) and extending across the front of the Lot between the Side Lines (as hereinafter defined) and being the horizontal distance between the Street Line (as hereinafter defined) and the Dwelling or any projection thereof other than the projection of the usual steps and eave overhangs.

"*Garage*" shall mean and refer to a building detached from the Dwelling or a portion of a Dwelling in which motor-driven vehicles are stored.

"*Height*" shall mean and refer to the measurement from the average established grade at the Street Line abutting the Lot or, if higher, from the highest ground level of the two points where the Front Setback Line (as hereinafter defined) intersects the two Side Lines of the Lot, to the highest point of the improvement being measured.

"*Mortgage*", "*deed of trust*", or "*trust deed*" shall mean and refer to a pledge of a security interest in or the creation of a lien upon a Lot and/or Dwelling Unit.

"*Lot*" means, with respect to any Property for which a subdivision map or plat (including the Plat) has been recorded in the Map Records of Jefferson County, Texas, each lot shown on such recorded

subdivision plat. "Lot" shall not be deemed to include any portion of the "Common Area" (defined herein as any Common Area shown on the Plat) in the Subdivision, regardless of the use made of such area.

"Member" shall mean and refer to each and every person or entity who holds membership in the Association, as provided in the Declaration and further defined below and in Article II of this Declaration.

"Owner" means the record owner (including a Builder), whether one or more persons or entities, of the fee simple title of any Lot but, notwithstanding any applicable theory of mortgages or other security devices, does not mean a mortgagee or trustee under a mortgage or deed of trust unless and until such mortgagee or trustee has acquired fee simple title pursuant to foreclosure or a conveyance in lieu of foreclosure. A person or entity holding or claiming an interest in a Dwelling Unit or Lot under an executory contract, contract for deed, option to purchase, lease, or license is not considered an Owner.

"Plat" means the plat or any replat of the Property or any portion thereof filed in the Map Records of Jefferson County, Texas.

"Property" has the meaning given to it in paragraph 1 of the Recitals above.

"Rear Line" shall mean the opposite of the Street Line.

"Resident" means each person (not otherwise an Owner or Member) authorized by an Owner to reside within such Owner's Dwelling Unit.

"Side Line" Shall mean and refer to any boundary line of a Lot which is not a Street Line or Rear Line.

"Street" shall mean and refer to the roadways dedicated by the Developer according to the Plat of record.

"Street Line" shall mean and refer to that boundary line of a Lot which is also the boundary line of a Street.

"Subdivision" shall mean and refer to the Lots located within the Final Plat of Indian Springs Phase I filed in the Jefferson County Records under Clerk's File Number 2018011003.

"Two-Thirds Member Vote" means two-thirds (2/3<sup>rd</sup>) of the Members (regardless of class) at a meeting duly called at which at least 51% of all Members (regardless of class) are in attendance in person or by written proxy. If a Member wishes to use a written proxy it must be filed with the Association at least twelve (12) hours before the meeting called for purposes of the vote.

## ARTICLE II MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION: ADDITIONS TO THE PROPERTY

2.01 Membership. Every person or entity who is a record owner of any Lot is automatically a Member of the Association, subject to the terms of this Declaration, the Articles of Incorporation, and the bylaws of the Association and the Association's rules and regulations. Membership of an Owner

in the Association is appurtenant to and may not be separated from the interest of such Owner in and to a Lot. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of a Lot is the sole qualification for being a Member; however, a Member's privileges in the Common Property may be regulated or suspended as provided in this Declaration, the bylaws of the Association, and/or the Association's rules and regulations. Regardless of the number of persons who may own a Lot (such husband and wife, or joint tenants, etc.) there shall be but one membership for each Lot. Additionally, the Directors of the Association shall also be Members of the Association (as more particularly described in the Bylaws). The voting rights of the Members are set forth in the Bylaws of the Association.

2.02 Transfer. Membership in the Association may not be severed from or in any way transferred, pledged, mortgaged, or alienated except upon the sale or assignment of said Owner's interest in a Lot and then only to the purchaser or assignee. Membership cannot be severed by an encumbrance. Owners shall notify the Association of the conveyance of the fee title to a Lot. A conveyance automatically transfers the membership to the new Owner. In the event an Owner fails or refuses to provide written evidence of such conveyance, the Association will have the right to record the transfer upon the books and records of the Association.

2.03 Non-Profit Association. Indian Springs Homeowners' Association, is a Texas non-profit corporation which has been organized and shall be governed by the Certificate of Formation and Bylaws of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said company.

2.04 Bylaws. The Association has adopted or may adopt whatever Bylaws it may choose to govern the organization or operation of the Subdivision and the use and enjoyment of the Lots and Common Areas, provided that the same are not in conflict with the terms and provisions hereof.

2.05 Class of Membership. The Association has two classes of voting membership.

**CLASS A.** Class A Members are all Members with the exception of Declarant. Class A Members are entitled to one (1) vote for each Lot owned by the member. When more than one (1) person or entity holds such interest or interest in any Lot, all such parties are Members, and the vote for such Lot may be exercised as they, among themselves, determine, but in no event can more than one (1) vote be cast with respect to any such Lot.

**CLASS B.** The Class B Member is the Declarant. The Class B Member is entitled to eight (8) votes for each Lot owned by the Class B Member until the Class B Member (i) has sold all Lots which may be created out of the Property; or (ii) voluntarily terminates these rights by written instrument recorded in the Official Public Records of Jefferson County, Texas at which time the Class B Member will be entitled to one (1) vote per Lot owned.

2.06 Additions to the Property. Additional tracts of land, together with the improvements situated thereon, may become subject to the Declaration and added to the Property in any of the following manners:

- (a) Declarant may, without the consent of any Owner and at its sole option, at any time within the Development Control Period and for a period of ten (10) years following the end of the Development Control Period, not to exceed twenty (20) years from the date or recordation of this Declaration, add to the Property all or any portion of any other real property (the "Additional Property"), by filing of record one or more Supplemental Declarations of Covenants, Conditions, and Restrictions, which extend the covenants conditions, and restrictions of this Declaration to the Additional Property. Any such Supplemental Declaration may contain additions and modifications of the covenants, conditions, and restrictions contained in this Declaration as necessary to reflect the different character, if any, of the Additional Property consistent with the concept of this Declaration. In no event, however, shall such Supplemental Declaration modify or add to the covenants established by this Declaration for the Property existing prior to the filing of any such Supplemental Declaration unless such modifications and additions are approved by a Two-Third Member Vote. Declarant may make any such addition even though at the time such addition is made Declarant is not the Owner of any portion of the Property. Each Supplemental Declaration shall designate the number of separate tracts comprising the Additional Property which are to constitute lots and each lot or tract shall constitute a "Lot" within the meaning of this Declaration. All or any part of the Additional Property and improvements located thereon owned by Declarant or any interest held by Declarant in the Property may be conveyed, transferred, or assigned to the Association and designated as Common Property by the Declarant at its sole discretion and without the approval, assent, or vote of the Association or of its Members, provided that any property so conveyed must be free and clear of any and all encumbrances, taxes and assessments. Nothing contained herein requires Declarant to add Additional Property. Moreover, Declarant reserves the right to subject any Additional Property or any part thereof to one or more separate declarations of covenants, conditions, and restriction which subject the Additional Property to the jurisdiction of an association or other entity with powers and obligations similar to the Association and which may or may not be subject to the provisions of this Declaration.
- (b) The annexation of Additional Property can be accomplished by Declarant without the joinder of any other party.

### ARTICLE III PROPERTY RIGHTS IN THE COMMON PROPERTY

- 3.01 Right of Enjoyment. Every Member shall have a beneficial interest of use and enjoyment in and to the Common Areas and such right shall be appurtenant to and shall pass with the title to every assessed Lot; however, such rights do not give Members the right to make alterations, additions, or improvements to the Common Property.
- 3.02 Title to the Common Property. The Declarant shall convey to the Association, by Special Warranty Deed, fee simple title to the Common Property, or in the case where easements constitute part of the Common Property, Declarant shall assign and transfer such easements to



the Association; in each case free and clear of all encumbrances, other than the lien of taxes and assessments for the current year not yet due and payable, utility easements, pipelines, setback lines, mineral interests, and other matters filed in the Official Public Records of Jefferson County, Texas.

3.03 Extent of Members' Rights. The rights of use and enjoyment created hereby are subject to the following:

- (a) The right of the Association to prescribe regulations governing the use, operation, and maintenance of the Common Property (including limiting the number of guests of Members);
- (b) The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Areas;
- (c) Following the approval by a Two-Thirds Member Vote, the right of the Association, in accordance with its Articles, to borrow money for the purpose of improving Common Property and facilities and to mortgage the Common Property to secure a loan for such purposes;
- (d) The right of the Association, as may be also provided by its bylaws, to suspend the voting rights of any Member and to suspend the right of any individual (including Members, guests, and Residents) to use any of the Common Areas for any period during which any Assessment against a Lot owned by such Member remains unpaid, and for any period not to exceed sixty (60) days for an infraction of its rules and regulations;
- (e) The right of the Association to suspend the Member's right to use any recreational facilities with the Common Area, after notice and hearing by the Board of Directors for the infraction or violation by such Member or related user of this Declaration or the "Rules and Regulations", as hereinafter defined, which suspension shall continue for the duration of such infraction or violation, plus a period not to exceed sixty (60) days following the cessation of curing of such infraction or violation; and,
- (f) Following approval by a Two-Thirds Member Vote, the right of an Association to dedicate or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and upon such conditions as the Board of Directors of the Association may determine in its sole discretion.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

4.01 Creation of the Lien and Personal Obligation for Assessments. Declarant, for each Lot owned by it within the Property, hereby covenants and agrees, and each purchaser of a Lot (by acceptance of a deed, whether or not it is so expressed in any such deed or other conveyance), hereby

covenants and agrees to pay to the Association (or a payee designated by the Association):

- (a) Annual Assessments or charges, to be paid in installments as the Board of Directors of the Association may direct;
- (b) Special Assessments for capital expenditures, such assessments to be fixed, established, and collected from time to time as hereinafter provided; and
- (c) Default Assessments which may be assessed against an individual Owner to reimburse the Association for extra maintenance and repair costs incurred as a result of the willful or negligent acts or omissions of such Owner, or the Owner's family, agents, guests, and invitees, such default assessments to be fixed, established, and collected from time to time as hereinafter provided. The regular annual Assessments, special Assessments, and default Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided (collectively "Assessments"), shall be a charge and continuing lien upon each Lot against which such Assessment is made. Each Assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, also are considered the continuing personal obligation of the person who was the Owner of such Lot at the time when the Assessment became due. The annual assessments are payable provided in this Article IV.

4.02 Purpose of Assessments. The Assessments levied by the Association are to be used:

- (a) for the purpose of promoting the recreation, health, safety and welfare of the Owners of the Subdivision and other provisions of adjacent annexable areas which hereafter may become subject to the jurisdiction of the Association. Assessments shall be used for the improvement and maintenance of Common Property or services in furtherance of the these purposes and the performance of the Association's duties, including but not limited to maintenance of the cluster mailbox kiosk, landscaping, and monument signs, or other property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the Common Property including, but not limited to, the payment of taxes on and insurance in connection with the Common Property and the repair, replacement, maintenance, and additions thereto;
- (b) for paying the cost of labor, equipment (including the expense of leased equipment) and materials required for, and management and supervision of, the Common Property;
- (c) for carrying out the duties of the Board of Directors of the Association as set forth in Article V hereafter, including, but not limited to, the payments by the Association of all charges payable in connection with electricity, gas, sewer, water, and garbage pick-up services, and installation, maintenance, and operation of lighting for the Common Property;
- (d) for determining the amount of the Assessments in accordance with this Declaration to such level as is reasonably necessary in the judgment of the Board to cover obligations

of the Association under this Declaration, including maintenance of reasonable cash reserves.

4.03 Basis and Amount of Assessments

- (a) Prior to January 1, 2019, the annual Assessment for each Lot owned by an Owner shall be \$600.00; Declarant shall pay \$90.00 for each Lot owned by Declarant; and any Builder shall pay \$300.00 for each Lot.
- (b) Beginning January 1, 2019, and each year thereafter, the annual Assessment for that year shall be set by the Board of Directors at least 30 days prior to the due date of the annual Assessment. The annual Assessment for each Lot owned by Declarant, at the time of annual Assessment, shall be an amount equal to fifteen (15%) of the amount assessed against a single Lot owned by a Member other than Declarant or Builder, unless a Lot owned by Declarant is improved with a Dwelling Unit that is occupied, in which event the annual Assessment for such Lot shall be equal to the annual Assessment assessed against a single Lot owned by another Member. The annual Assessment for each Lot owned by a Builder at the time of annual Assessment shall be an amount equal to fifty (50%) of the annual Assessment assessed against a single Lot owned by a Member other than Declarant or Builder, unless a Lot owned by a Builder is improved with a Dwelling Unit that is occupied, in which event the annual Assessment for such Lot shall be equal to the annual Assessment assessed against a single Lot owned by another Member;
- (c) At its sole discretion, the Board may increase the annual Assessment in an amount up to ten percent (10%) over the previous year's assessment. Any increase greater than ten percent (10%) will require approval by a Two-Thirds Member Vote.

4.04 Special Assessments for Capital Improvements. In addition to the annual Assessments authorized by Section 4.03 above, in any year the Association may levy a special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, repair or replacement of any capital improvement upon the Common Property, including the necessary fixtures and personal property, provided that any such Assessment for capital improvements must be approved by a Two-Thirds Member Vote.

4.05 Date of Commencement of Assessment Due Date. The annual assessments provided for herein shall commence of the earlier of:

- (a) January 1, 2019; or
- (b) when the first Lot is sold. Assessments shall be prorated from the date of sale; with an Owner being allocated a portion of the Assessment due based on the rate charged to an Owner other than Declarant or a Builder under 4.03 above. The due date or dates, if the Board allows payment in installments, of any special Assessments under section 4.04 or of any default Assessment under Section 4.01, shall be fixed in a resolution by the

Board. Unless otherwise determined by the Board, the due date for all annual Assessments shall be thirty days after notice of Assessment is mailed to Owners.

4.06 Duties of the Board with Respect to Assessments.

- (a) The Board shall determine the Assessment against each Lot and notify each Owner in writing at least thirty (30) days prior to the due date, and prepare a roster of the Lots and Assessments which shall be kept in the office of the Association and shall be open to inspection by any Owner;

4.07 The Board shall, upon an Owner's written request and payment of any reasonable fee set by the Board, furnish to an Owner liable for each Assessment a certificate in writing signed by an officer of the Association setting forth whether or not such assessment has been paid. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificates.

4.08 Effect of Non-Payment of Assessment; Personal Obligation of the Owner, the Lien, Remedies of Association.

- (a) If any Assessment or any part thereof is not paid on the date(s) when due, then the unpaid amount of such Assessment shall become delinquent and shall, together with such interest thereon and the costs of collection as hereinafter provided, be a continuing lien (the "Lien") on the applicable Lot. The Lien shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the Assessments because of non-use of the Common Property or abandonment of the Lot.
- (b) In order to secure the full and timely payment of all Assessments and other amounts payable by each Owner hereunder, each Owner, by his acceptance of a deed or other conveyance of the Lot and regardless of whether or not such deed or other conveyance expressly contains such a provision, does hereby grant and convey unto the President (from time to time) of the Board of Directors (or its designated representative) in trust as Trustee (the "Trustee"), for the benefit of the Association, the Lot(s) owned by such Owner, subject to all easements and other encumbrances affecting such Lot, provided, that each such grant shall be subordinated to the liens of any Mortgage; and for these purposes the provisions of this Section 4.07(b) shall be deemed to have created a deed of trust (the "Deed of Trust") lien covering such Lot with a power of sale granted to the Trustee in accordance with the provisions of Chapter 51 of the Texas Property Code (the "Code") as it may be amended from time to time. The Deed of Trust created hereby shall be upon the same terms and conditions, and shall provide to the Association all of the rights, benefits and privileges of the Deed of Trust promulgated by the State Bar of Texas, and all amendments, modifications, and substitutions thereof, which form is hereby incorporated by reference for all purposes hereof. The Association, acting through its President or any Vice President, shall have the right in its sole discretion at

anytime, and from time to time, to appoint in writing a substitute trustee who shall succeed to all rights and responsibilities of the then acting Trustee.

- (c) Without limiting the remedies available upon the occurrence of a default by any Owner in the payment of any Assessment or other amount due and payable hereunder, the Association may, at its election and by and through the Trustee, sell or offer for sale the Lot owned by the defaulting Owner to the highest bidder for cash at public auction in accordance with the provisions of the Code. The Association may, at its option, accomplish such foreclosure sale in such manner as permitted or required by the Code or by any other present or future laws relating to the same. After the sale of any Lot in accordance with the provisions of this Section 4.07(c), the Owner of such Lot shall be divested of any and all ownership interest, and the proceeds of any such sale shall be applied in the following order of priority:
  - (i) to the payment of the costs and expenses of taking possession of the Lot
  - (ii) to the payment of reasonable attorney fees and Trustee's fees
  - (iii) to the payment of costs of advertisement and sale
  - (iv) to the payment of all unpaid Assessments and other amounts payable by such Owner to the Association, and
  - (v) to the defaulting Owner or to any other party entitled thereto. The Association shall have the right to be credited on the amount of its bid all of the Assessments and any other amount due and owing by the defaulting Owner to the Association as of the date of such sale.
  
- (d) If any Assessment or part thereof is not paid within thirty (30) days after the delinquency date, the unpaid amount of such Assessment shall bear interest from the date of delinquency at the lesser of eighteen percent (18%) per annum or the maximum legal rate of interest allowed by law and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the Lien pursuant to Texas Property Code 51.002 (and any successor statute). There shall be added to the amount of such Assessment the costs of preparing and filing the suit (including reasonable attorney's fees) in such action, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of court.
  
- (e) Each such Owner hereby expressly grants the Association power of sale. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Associations' agent, shall give notice of foreclosure sale as provided by the Texas Property Code as then amended. Upon request by Association, Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as amended, and shall convey such Lot to highest bidder for cash by Special Warranty Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and

reasonable trustee's fees, second, from such proceeds there shall be paid to the Association an amount equal to the amount in default, and third, the remaining balance shall be paid to such Owner. Following any such foreclosures, each occupant of any such Lot foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

- (f) In the event of non-payment by any Owner of any Assessment or other charge levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon thirty (30) days prior written notice hereof to such nonpayment Owner, exercise all other rights and remedies available at law or in equity.
- (g) It is the intent of the provisions of this Article IV to comply with provisions of said Section 51.002 of the Texas Property Code relating to nonjudicial sales by power of sale, including any amendment of said Section 51.002 of the Texas Property Code. Hereafter, the President or any Vice-President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to this Declaration filed in the Real Property Records of Jefferson County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

4.09 Notice of Lien. In addition to the right of the Association to enforce the Assessments or other charges levied hereunder, the Association may file a claim or lien against the Lot of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) interest and costs of amount of the claim of delinquency, (c) the interest and costs of collection which have accrued thereon, (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured hereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other cost and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such release of lien instrument.

4.10 Subordination of the Lien to Mortgages. The Lien securing the payment of the Assessments and other obligation provided for herein shall be superior to any and all other charges, liens, or encumbrances which may hereafter in any manner arise or be imposed upon any Lot whether arising from or imposed by judgment or decree or by any agreement, contract, Mortgage, or other instrument, except for:

- (a) Mortgages for purchase money, home improvements, or home equity loans (and refinances thereof) shall be superior to the Association's Lien;

- (b) Liens for ad valorem taxes or other public charges shall be superior to the Association's Lien if superiority is provided by applicable law; and
- (c) Such other liens which the Board may, in the exercise of its reasonable discretion, elect to voluntarily subordinate the Association's Lien;

Provided, however, subordination shall apply only to the Assessments which are due and payable prior to the foreclosure sale (whether public or private) pursuant to the terms and conditions of any Mortgage or tax lien. Such sale shall not relieve the Lot and its Owner from liability for the amount of any Assessment thereafter becoming due or from the Lien of any subsequent Assessment. Furthermore, subordination shall not apply where the Mortgage or tax lien is used as a device, scheme or artifice to evade the obligation to pay Assessments and/or to hinder the Association in performing its functions.

4.11 Exempt Property. The following property subject to this Declaration shall be exempt from the Assessment, charge, and lien created herein:

- (a) All Property dedicated to and accepted by the local public authority and devoted to public use;
- (b) All Common Property.

4.12 Handling of Assessments. The collection and management of the assessments and other charges levied hereunder shall be performed by the Association in a separate special account for these funds.

4.13 Failure to set Assessments. The failure of the Board, before the expiration of any year, to fix the Assessments hereunder for that or the next year, shall not be a waiver or modification of Assessments for that or any subsequent year, but the Assessment fixed for the preceding year shall continue until a new assessment is set by the Board.

4.14 Alternative Payment Schedule. In compliance with Section 209.0062 of the Texas Property Code, Owners may be entitled to make partial payment for delinquent amounts owed to the Association. The Association may impose a fee for administering a Payment Plan. Such fee, if any, will be listed on the Payment Plan form and may change from time-to-time. Interest will continue to accrue during a Payment Plan as allowed under the Declaration. The Association can provide an estimate of the amount of interest that will accrue under any proposed plan. All Payment Plans must be in writing on a form provided by the Association and signed by Owner.

- (i) The Payment Plan becomes effective and is designated as "active" upon:
  - (1) receipt of a fully completed and signed Payment Plan form; and
  - (2) receipt of the first payment under the plan; and
  - (3) acceptance by the Association as compliant with this provision.

- (ii) Unless alternative payment plan terms are approved by the Association, a Payment Plan duration will consist of:
  - (1) Six (6) equal monthly payments for owners with an account balance of \$1000.00 or less; or
  - (2) Twelve (12) equal monthly payments for owners with an account balance of \$1000.01 or more.
  
- (iii) Except if the owner is in default under a Payment Plan with the Association at the time the Association receives a payment from an owner, the payment will be applied to the owner's debt in the following order of priority:
  - (1) Any delinquent assessment;
  - (2) Any current assessment;
  - (3) Any attorney's fees or third-party collection costs incurred by the Association solely with assessments or any other charge that could provide the basis for foreclosure;
  - (4) Any attorney's fees incurred by the Association that are not subject to (3) above;
  - (5) Any fines assessed by the Association;
  - (6) Any other amount owed to the Association.
  
- (iv) On a case-by-case basis and upon request of the owner, the Board may approve more than one Payment Plan to be executed in sequence to assist the owner in paying the amount owed. The individual Payment Plans may not exceed eighteen (18) months.
  
- (v) A Payment Plan must include sequential monthly payments. The total of all proposed payments must equal the current balance plus Payment Plan administrative fees, if any, plus the estimated accrued interest.
  
- (vi) If Owner defaults on the terms of the Payment Plan, the Payment Plan will be voided. The full amount due by the Owner shall immediately become due. The Association will provide written notice to the Owner that the Payment Plan has been voided. The Association will resume the process for collecting Assessments owed during all remedies available under the Declaration and law. It is considered a default of the Payment Plan, if the Owner:
  - (1) fails to return a signed Payment Plan form with the initial payment; or
  - (2) misses a payment due in a calendar month; or
  - (3) makes a payment for less than the agreed upon amount; or
  - (4) fails to pay a future assessment by the due date in a Payment Plan which spans additional assessment cycles.
  
- (vii) It shall be the absolute discretion of the Association to waive any default listed in (vi) above if the owner makes up the missed or short payment on the immediate next calendar month payment. The Association may, but has no obligation to, provide a courtesy notice to the Owner of the missed or short payment.



(viii) Owner may submit a written request to the Association for reinstatement of a voided Payment Plan. The Association shall have the absolute discretion and no obligation to reinstate a voided Payment Plan.

(vix) The Association has no obligation to accept a Payment Plan from a Owner who has defaulted on the terms of a Payment Plan within the last two (2) years.

4.15 Applicability of Texas Property Code. The foregoing provisions concerning enforcement are expressly subject to Chapter 209 of the Texas Property Code, as amended from time to time.

## ARTICLE V

### GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

5.01 General Power and Duties of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons whom the Board of Directors has delegated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the members, to maintain, improve and enhance the Common Areas and to improve and enhance the attractiveness, desirability and safety of the Subdivision. The Association shall have the authority to act as the agent to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the Association as set forth in this Declaration.

(a) The Board, for the benefit of the Property and the Owners, shall provide, and shall pay out of Assessments, to the extent appropriate, the following:

(i) Care, preservation, and maintenance of the Common Property, including, without limitation, the purchase and upkeep of any desired personal property used in connection with the maintenance of the Common Property, maintenance of grounds, including care and replacement of trees, shrubs, and grass, lighting systems, and any installed sprinkler systems on the Common Property, provided, however, if maintenance or repair is caused by the willful or negligent act or omission of any Owner, the Owner's family, a Resident, or any of their respective guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment attributable to such Owner's respective Lot(s);

(ii) The services of a person or firm to manage, or assist in managing, the Association or any part thereof, to the extent deemed advisable by the Board, whether such personnel are employed directly by the Board or by the manager;

(iii) Legal and accounting services;

(iv) If deemed appropriate by the Board, a policy or policies of insurance insuring the Association and the Board against any liability to the public or to the Owners (and/or invitees, guests, or tenants), incident to the operation of the Association,

- in an amount not less than \$250,000 per occurrence, \$500,000 aggregate, which policy or policies shall contain waiver of subrogation;
- (v) Worker's compensation insurance to the extent necessary to comply with any applicable laws;
  - (vi) Such fidelity bonds as the Board may determine to be advisable.
  - (vii) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, or other items (including taxes assessed against an individual Owner) which the Board is required to obtain or pay pursuant to the terms of this Declaration or by law or which in its opinion is necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.
- (b) The Board shall have the following additional rights, powers, and duties:
- (i) To execute all replats of the Property and to execute all declarations of ownership for tax valuation purposes with regard to the Common Property on behalf of all Owners;
  - (ii) To borrow funds to pay costs of operation, secured by assignment or pledge of rights against any Assessments, or by a mortgage on the Common Property, if the Board sees fit;
  - (iii) To enter into contracts, maintain one or more bank accounts (granting authority as the Board shall desire to one or more persons to sign checks) and, generally, to have all the powers necessary or incidental to the operation and management of the Association;
  - (iv) To protect and defend the Common Property from loss or damage by suit or otherwise, and to provide adequate reserves for replacements;
  - (v) To make reasonable rules and regulations for the maintenance and protection of the Common Property, and to amend them from time to time;
  - (vi) To make available to each Owner upon written request within sixty (60) days after the end of each year an annual report
  - (vii) To adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency;
  - (viii) To prepare budgets for the association, including reserve funds for the maintenance of all Common Areas;
  - (ix) To levy, collect and enforce the Assessments and other charges as elsewhere provided in this Declaration;
  - (x) To perform functions to assist the Architectural Control Committee;
  - (xi) To acquire property or an interest in property (including leases) for the common benefit of Owners including improvements and personal property. The Association may construct improvements on the Property and may demolish existing improvements. The Developer, prior to transfer by Developer to the Association, may grant, sell or give and convey one or more areas out of the Common Areas and out of the platted Lots to accommodate adequate

- engineered storm draining including but not limited to one or more storm drainage detention ponds;
- (xii) To adopt, amend, repeal and enforce rules and regulations, fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Areas, and the use of any other property, facilities or improvements owned or operated by the Association;
  - (xiii) To enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board of Directors deems necessary or desirable to cause such compliance by each Member. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations of the Association by any one or more of the following means: (i) by entry upon any property within the Subdivision after notice and hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without notice (written or oral) to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the improvement situated thereon by the Owner or any other person, without liability by the Association to the Owner thereof, for the purpose of enforcing of this Declaration or the Rules and Regulations; (ii) by commencing and maintain actions and suits to restrain and enjoin any breach or threatened breach of provisions of this Declaration or the Rules and Regulations; (iii) by exclusion, after notice and hearing, of any Member from use of any recreational facilities within the Common Areas during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such member, unless the breach is a continuing breach in which case exclusion shall continue for so long as such breach continues (iv) by suspensions, after notice and hearing, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member of a provision of this Declaration or such Rules and Regulations, unless the breach is a continuing breach in which case such suspensions shall continue for so long as such breach continues; (b) by levying and collection, after notice and hearing, an assessment against each Member for breach of this Declaration or such Rules and Regulations by such Member which assessment reimbursed the Association for the cost incurred by the Association in connection with such breach, (vi) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member for breach of this Declaration or such Rules and Regulations by such Member and, (vii) by taking action itself to cure such violation and to charge the expenses thereof, if any, to such violating Members, plus attorney's fees incurred by the Association with respect to exercising such remedy.
  - (xiv) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provision or rules.

- (xv) Before the Board may invoke the remedies provided above, it shall give registered notice of any such alleged violation to Owner, and shall afford the Owner a hearing. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, the Developer, any Builder, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of the right to take enforcement action thereafter or upon a subsequent breach or default.
- (xvi) In addition to any blanket easements described in this Declaration, the Association shall have the power to grant access, utility, drainage, water facility and other such easements in, on, over or under the Common Area.

5.02 Board Powers, Exclusive. The Board has the exclusive right to contract for all goods, services, and insurance, payment of which is to be made from the Assessments.

5.03 Rules and Regulations. The Board may make and enforce reasonable rules and regulations governing the use of the Common Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions for violations of this Declaration, the bylaws, or such rules and regulations may include reasonable monetary fines, suspension of the right to vote, the right to use any facilities on the Common Property, and the right to hold any office or appointed position in the Association or committee. In addition, the Association shall have the right to exercise self-help to cure violations, and shall be entitled to suspend any services provided by the Association to any Owner or such Owner's Dwelling Unit in the event that such Owner is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association after written notice of the violation, plus the actual costs to the Association for curing the violation. The Board shall also have the power, but not the obligation, to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the bylaws of the Association.

## ARTICLE VI EASEMENTS

6.01 Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Developer to any of the Lots by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, electric lighting, electric power, telegraph or telephone purposes and other easements hereafter described in this Article VI affecting the Lots. The Owners of the respective Lots shall not be deemed to own pipes, wires, conduits or other services lines running through their Lots which are utilized for or service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

6.02 Easement Reserved for the Association. The Association has full rights of ingress and egress at all times over and upon each Lot and the Property to exercise its rights, functions, duties, and obligations, provided that any such entry by the Association upon any Lot shall be made with as

minimum inconvenience to the owner as practical, and any damage caused by it shall be repaired by the Association.

- 6.03 Easements and Rights Reserved by Declarant. Declarant hereby reserves for itself, its successors, and assigns the right to dedicate streets, sidewalks, maintenance, repair, and replacement of utilities and related facilities, which shall include, but not be limited to, sewer (sanitary and storm), gas, electric, telephone, cable television, and water lines, upon, over, under, and across the Property, as it in its sole discretion deems proper or appropriate. Further, Declarant hereby reserves temporary construction easements for the construction, repair, removal, maintenance, and reconstruction of improvements within the Property, including the right to remove, on a temporary basis, fences, driveways, sprinkler systems, landscaping, and other improvements as shall be reasonably necessary to enable Declarant to complete the development and improvement of the Property; provided that any such improvement removed by Declarant shall be replaced and/or restored upon completion of the construction activities as near as practical to their former condition. All claims for damages, if any, arising out of any such construction or other activities by Declarant are hereby waived by each Owner and the Association.
- 6.04 Rights Reserved to Governmental Authorities and Utility Companies. Declarant and any governmental authority having jurisdiction over the Property, and any utility company which provides utilities to the Property, have full rights of access at all times over any dedicated easement for the installation, operation, maintenance, repair, or removal of any utility, together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation, or installation of such utility. All claims against Declarant, the Board, or the Association for damages, if any, arising out of the construction, maintenance, and repair of utilities or on account of temporary or other inconvenience caused hereby is waived by each Owner and the Association. Declarant further reserves the right to alter, redesign, or discontinue any street, avenue, or way shown on the Plat not necessary for ingress or egress to and from an Owner's Lot, subject to the written approval of the applicable governmental authority, if required.
- 6.05 Universal Easement. Each Lot and its Owner is hereby declared to have an easement, and the same is hereby granted to Declarant, over all adjoining Lots and Common Property for the purpose of accommodating any minor encroachment (other than slab or foundation encroachments which shall not be deemed minor) due to engineering errors, errors in original construction, settlement, or shifting of building or any other cause. For purposes of this section only, an encroachment is considered "minor" if it extends one foot or less onto adjoining Lots or Common Property. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of any encroachments so long as they exist. Each of the easements referred to in this section shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to the Lot being serviced and shall pass with each conveyance of said Lot. Notwithstanding the forgoing, in no event shall easement for encroachment be created in favor of an Owner or Owner if said encroachment occurred due to the willful misconduct of said Owner or Owners.

- 6.06 Electric Service. An electricity distribution system shall be installed to serve all Lots in the subdivision. The Owner of each Lot, at the Owner's cost, shall furnish, install, and maintain (all in accordance with the requirements of local governmental authorities and the National Electrical Code) a service cable and appurtenances from the meter installed on the Lot by the electric company to such point as may be designated by the company on the property line of the Lot. The company furnishing electric service shall make the necessary connection at the property line and at the meter. Each Owner, at the Owner's cost, shall install, furnish, and maintain a meter loop (in accordance with then-current standards and specifications of the electric company) for the residence constructed on the Lot. For as long as underground service is maintained, the electric service to each Lot shall be uniform in character and exclusively of the type known as single-phase 120/240 volt, 3-wire, 60-cycle alternating current.

## ARTICLE VII PROTECTIVE COVENANTS

- 7.01 Residential Uses Only. Each Lot and Dwelling Unit may only be used for only single-family residential purposes. No building or structure can be used for or adapted to business, commercial, or industrial purposes, and no apartment house or condominiums, duplex, triplex, lodging house, rooming house, or other multiple-family dwelling shall be erected, placed, permitted, or maintained on any Lot. Only structures approved for residential use by the Architectural Committee, including but not limited to trailers, motor homes, basements, tents, shacks, garages, and other outbuildings and accessory structures, may be used on any Lot at any time as a residence, either temporarily or permanently. The term "dwelling" does not include single or double wide manufactured homes, and said manufactured homes are not permitted within the Subdivision. Specifically excluded from this provision is the right to have one (1) "garage" sale annually per residence.
- 7.02 Rubbish, Trash and Garbage. No Lot shall be used or maintained as a dumping ground for rubbish or trash. All garbage and other waste shall be kept in sanitary containers, not to accumulate and disposed of regularly. There shall be no burning or incineration of trash, garbage, leaves, brush, or other debris. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be screened from public view. In the event of the failure of Owner to comply with this requirement after thirty (30) days written notice thereof, the Association or their designated agents may, without liability for trespass or otherwise, enter upon said Lot, cause to be removed such garbage, trash and rubbish to secure compliance with this Declaration. Payment for charges incurred for the removal of such garbage, trash and rubbish shall be assessed upon the Owner and payable on the first day of the next calendar month.
- 7.03 Rain Barrels. Rainwater harvesting systems or rain barrels (collectively referred to herein as "Rain Barrels") are prohibited if visible from a street, another lot or a common area without adequate screening which requires the prior approval of the Architectural Committee. Rain Barrels must be of commercial and professional grade and must be fully enclosed and have proper screen or filter to prevent mosquito breeding and harboring. Rain Barrels may not create

unsanitary conditions or be of nuisance to any neighboring properties. Rain Barrels are prohibited in the following circumstances:

- (i) Rain Barrels that are located on property owned by the Association;
- (ii) Rain Barrels that are located on property that is owned in common by members of the Association;
- (iii) Rain Barrels that are located between the front of the Owner's home and an adjoining or adjacent street;
- (iv) Rain Barrels that are of a color not consistent with the color scheme of the home; and
- (v) Rain Barrels that display language or content other than the manufacture's typical display.

7.04 Solar Energy Devices. Pursuant to Texas Property Code §202.010 and any amendment thereto, solar energy devices, including solar panels, are prohibited on any lot within the Subdivision during a Development Period. "Development Period" means a period during which the Declarant reserves the right to facilitate the development, construction, and marketing of the subdivision and the right to direct the size, shape, and composition of the Subdivision. After the completion of the development period, solar energy devices, including solar panels, may be installed so that they are not visible from the street, adjoining lot, or Common Area.

7.05 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that no more than four (4) in any combination of dogs, cats, or other household pets may be kept for the purpose of providing companionship for the private family, provided they are not kept, bred, or maintained for any commercial purpose or food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, geese, turkeys, skunks or any other animals that may interfere with the quietude, health, or safety of the community. Pets are not permitted to be on the Common Property unless on a leash or completely restrained. Pet excrement on Common Property must be picked up and disposed of immediately by the owner. Reptiles and uncaged birds are expressly prohibited. The Board may establish rules from time to time concerning pet ownership so long as not in conflict with these covenants. If the Board determines that a pet is causing a nuisance or is being offensive or harmful the Board may demand that the owner remove the offending pet from the subdivision. All dogs and cats must be properly vaccinated and tagged for identification. The Board is entitled to injunctive relief to enforce this provision.

7.06 Signs and Picketing. No signs of any type shall be allowed on any Lot except (i) one sign of not more than five square feet advertising the property for sale or rent or (ii) a professional security system sign of not more than one (1) square foot. However, Declarant, as well as any other person engaged in the construction and sale of residences on the Property shall have the right, during the construction and sales period, to construct and maintain advertising signs exceeding five square feet. Any person engaged in the construction and sale of residences on the Property, other than Declarant, must obtain the prior approval of the Architectural Committee before placing any sign on the Property that exceeds five square feet. Developer, President or Vice-President of the Association, or its agents shall have the right to remove any sign, billboard or other

advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

- 7.07 Parking Vehicles. Vehicles (passenger cars, passenger vans, and light trucks under one ton capacity) shall be parked in the garage or driveway of the Lot serving the Dwelling Unit, or in such other paved areas as established by the Board for parking. No on-street vehicle parking is allowed for more than 6 consecutive hours. Inoperable vehicles may be stored in the garage of the Dwelling Unit, but may not otherwise be placed or left on the Property or in the streets.
- 7.08 Trucks, Buses and Trailers. Except as provided in section 7.07, there shall be no parking in the streets, except for construction and repair equipment while a Dwelling Unit is being built or repaired in the immediate vicinity. No truck, bus (except a pickup truck up to one (1) ton capacity or passenger van for personal use), shall be parked on the driveway or any portion of the Lot in such manner as to be visible from the street. Trucks in excess of one (1) ton shall not be permitted to park overnight on the streets, driveways, or on any Lot. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Subdivision except those used during the construction or improvements of a dwelling.
- 7.09 Recreational Vehicles. No boat, marine craft, hovercraft, aircraft, recreational vehicles, pick-up camper, travel trailer, motor home, camper body, all trailers or similar vehicle or equipment or unregistered automobile or truck may be parked for storage in a driveway or front yard of any dwelling or parked on any street within the Subdivision, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely behind 6 foot privacy fence. No such vehicle shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity.
- 7.10 Detached Buildings. A detached building used as an accessory structure no larger than 400 square feet, if approved by the Architectural Committee, may be placed on the rear of a Lot. The detached building shall be integrated appearance-wise to the house: siding, trim, roofing material and paint scheme to match.
- 7.11 Fences, Walls, Hedges, and Utility Meters. No fence, wall, hedge, or utility meter shall be placed, or permitted to remain, on any Lot nearer to the street or streets adjoining such Lot than is permitted for the main residence on such Lot, except for decorative subdivision entry fences. All fences external to the lot must be of wooden materials and consistent with the aesthetics and in harmony with respect to the color to those of neighboring lots. No fence shall exceed the height of six (6) feet. No barb wire, razor wire, cattle wire or plain galvanized chain link fencing is allowed. Wrought iron fences may be approved by the Architectural Committee when consistent with the aesthetics and in harmony with respect to neighboring lots. Architectural Committee approval is required on a site plan with specifications prior to the installation of a fence.
- 7.12 Exterior Fence. The decorative exterior fence constructed at the entrance of the subdivision, along Monroe Street and such fence as may be constructed by the Developer or the Association as a partition upon the exterior perimeter of the subdivision which are located on certain Lots



within the subdivision are common elements of the subdivision and the Association. The Association, its agents and employees shall have an easement to go across the Lots on which such fence is situated for the purposes of maintaining, altering, replacing or removing such fence; and such fence shall not be altered, removed, replaced or otherwise interfered with by the Owners of the Lots upon which the same is located. Owners of Lots are strictly prohibited from altering the exterior fence for rear access to Owners Lot or to any road or street including Monroe Street. Any other fence in the subdivision shall be the property of the owner of the Lot on which the fence is situated and shall be maintained by such Lot owner.

7.13 Poles and Antennas.

- (a) Poles. Only one free-standing flagpole, no more than 30 feet high including any ornamental cap shall be installed on any Lot in a location approved by the Architectural Committee. A free-standing flagpole may not be installed within a ground utility easement or encroaching into an aerial easement, beyond the side or rear setback lines or beyond half the distance of the front setback line or closer to a dwelling on an adjacent lot than the height of the flagpole. Permitted Flags may be up to three foot (3') by five foot (5') in size and include: (i) the flag of the United States; and (ii) the flag of the State of Texas; and (iii) the official flag of any branch of the United States armed forces. Only one Permitted Flag may be displayed on a flagpole attached to a structure. Lighting may be installed to illuminate the Permitted Flag if the lighting is ground mounted in the vicinity of the flag, a fixture screens the bulb, directs light in the intended direction with minimal spillover and points towards the flag, and illumination does not exceed the equivalent of a 60 watt incandescent bulb. All flags and flagpoles must be maintained in good condition and without deterioration. Deteriorated or structurally unsafe flagpoles must be promptly repaired, replaced or removed. In addition to the one free-standing flagpole allowed above, owners may display one temporary freestanding flagpole with a U.S. flag ("Temporary Flag") on their front yard for up to two days before and two days after the following dates: Independence Day, Memorial Day, Veterans Day and September 11<sup>th</sup>. Temporary Flags must meet all of the applicable requirements set by the Association.
- (b) Antennas. A maximum of two (2) satellite dishes no more than 24 inches in diameter may be installed, to the extent feasible and without cause of delay or additional costs, in a location not visible from the street. This provision for installation is not applicable when the placement impairs the installation, maintenance or use as prohibited by federal law.

7.14 Exterior Wood-Burning Stoves and Fireplaces. No exterior fireplace or wood-burning stoves shall be installed or used on any Lot unless it meets the requirements, standards, and recommendations of federal, state, and local authorities.

7.15 Clotheslines. No clotheslines shall be erected or installed and no clothing, linens or other material shall be aired or dried so as to be visible from the street.

7.16 Window Treatment. No aluminum foil, reflective film, signs, or similar treatment shall be placed on windows or glass doors.

- 7.17 Sewer Disposal and Collection. No individual sewage-disposal system shall be permitted on any lot unless the system is designed, located, and constructed in accordance with the requirements, standards, and recommendations of the City of Groves or its successor (or its successor) and the State of Texas. Approval of the system as installed shall be obtained from that authority.
- 7.18 Swimming Pools. All pools must be approved by the Architectural Committee.
- 7.19 Utilities. Dwelling units shall be connected to the water lines as soon as practicable after same are available at the Lot line. All telephone, electric, cable, gas, or other service lines shall be installed at Owner's expense and shall meet all requirements of the applicable governmental authority.
- 7.20 Quiet Enjoyment. No noxious or offensive activity shall be conducted on any Lot that may be or may become an annoyance or nuisance to the neighborhood (i.e., exterior speakers, horns, whistles, bells or other sound devices), except security and fire devices used exclusively to protect the Lot and improvements situated thereon.
- 7.21 Lighting. Except for traditional holiday decorative lights, which may be displayed for (2) months prior to and one (1) months after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved by the Architectural Committee.
- 7.22 Prohibited Uses. No Lot, and no Dwelling Unit or building erected or maintained on any Lot or any portion thereof, shall be used for manufacturing, industrial, business, commercial, institutional, or other non-residential purposes. Long-term leasing of a Dwelling Unit for single-family residential use is not considered a trade or business within the meaning of this section. However, no Owner shall be permitted to rent or license its Lot, the Dwelling Unit or building erected or maintained on any Lot or any portion thereof for transient lodging or hotel purposes, which, for the purposes of this Declaration shall be defined as either a rental or lease for a short-term period of less than 30 days. This prohibition expressly restricts vacation rentals and home sharing. Permitted leases of 31 days or more shall be in writing and shall be subject to this Declaration, the Bylaws, and the Rules and Regulations adopted hereunder and any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Owner shall assume all responsibility for actions of tenants and guests. Other than the foregoing restrictions, each Owner shall have the full right to lease all or any portion of his Lot, subject to applicable City, State, and Federal regulations. This section shall not apply to any activity conducted by the Declarant, or a Builder with written approval of the Declarant, with respect to development and sale of the Property, including the operation of a timeshare or similar program.
- 7.23 Oil Development and Mining Prohibited. No oil well drilling, development, or refining, and no mineral quarrying or mining operations of any kind shall be permitted on any Lot. No oil well, tank, tunnel, mineral excavation, or shaft shall be permitted on any Lot. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any Lot.

- 7.24 Water Supply. No individual water supply system shall be permitted on any Lot unless the system is located, constructed, and equipped in accordance with the requirements, standards, and recommendations of the City of Groves or its successor and the State of Texas. Approval of the system as installed shall be obtained from that authority.
- 7.25 Sight Distance and Intersections. No fence, wall, hedge, or plant that obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot in the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines as extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of intersections unless the foliage line is maintained to meet the sight line requirements set forth above.
- 7.26 Prohibition of Offensive Activities. No activity, shall be conducted on any lot which is not related to single family residential purposes. No Owner, Resident or Member shall conduct, transmit, permit or allow any type or kind of home business or home profession or hobby on any Lot or within any residence which would (a) attract automobile, vehicular or pedestrian traffic to the Lot (b) involve lights, sounds, smells, visual effect, pollution and the like which would adversely affect the peace and tranquility of any one or more of the Residents within the Subdivision or (c) require any signage which are prohibited. This restriction is waived in regard to the customary sales activities required to sell homes in the Subdivision. The discharge or use of firearms is expressly prohibited. The use of outdoor mercury lighting is expressly prohibited. The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance.
- 7.27 Yard Maintenance and Landscaping. The Owner of each Lot shall landscape the areas of his Lot which are visible from the Street in accordance with this Declaration and with the Landscaping Guidelines, if any. Grass and weeds shall be kept mowed to prevent unsightly appearance, and all curbs, roadways, drives and walkways shall be kept edged. All lawn clippings shall be collected and disposed of or blown back into grass. Clippings are not to be blown on the sidewalk, street or adjacent properties. All flower beds shall be kept free of weeds. All trees, shrubs, grass and plants that die shall promptly be removed and replaced. All trees shall be trimmed and maintained to remove dead, dangerous or unsightly limbs and to allow adequate sunlight to reach the yard to prevent the death of grass and ground covering. All yards shall be covered in grass, and as appropriate groundcover, with ornamental beds with shrubs and trees. At no time will artificial grass, flowers, mulch, rocks, or other similar landscaping items be allowed as the primary lawn covering. No vegetable gardens shall be permitted in the front or side yards of any Dwelling Unit.
- 7.28 Exterior Maintenance. Each Owner and Occupant of a Lot shall at all times be obligated to maintain his property and all improvements thereupon as well as the area between the boundary lines of his Lot and the curb or edge of the pavement of the adjacent Streets, so as to keep same in a clean, slightly and safe condition and to conform with this Declaration and all policies and guidelines set for by the Architectural Committee or Board of Directors. An Owner's maintenance

obligation shall include, but not be limited to: the maintenance, cleaning and repair of all visible exterior surfaces of all buildings and other improvements on his Lot, including but not limited to roofing, windows, siding, fences, doors, garage doors, fascia, soffits and other wood work, and gutters, and other items as outlined in this Declaration and in other policies and guidelines, as may be adopted by the Architectural Committee and/or Board of Directors.

- 7.29 Storage in Public View. No items may be stored or kept on the Front or Side of any Lot while not in use, including, but not limited to: bicycles, tricycles, basketball goals, barbecue pits, boxes, games, toys, coolers, wood piles, and items of similar design or function. All such items shall be kept in an enclosed garage or storage building, or to the rear of the Lot, screened from public view and the view of neighboring properties.
- 7.30 Window Air Conditioners. No Window Air Conditioners shall be permitted in any windows on the Front or Side of the Dwelling Unit, nor shall it be visible from the street or neighboring properties.
- 7.31 Enforcement. If in the opinion of the Board of Directors or the Committee, any such Owner or occupant (including lessees) has failed to comply with any of the foregoing restrictions or has failed in any of the foregoing duties or responsibilities, then the Committee or the Association shall deliver to such owner or occupant (including lessees) written notice of such failure and such Owner or occupant (including lessees) must within ten (10) days from and after delivery of such notice, comply with the restrictions and/or perform such duties or cure such prohibited violation. Should any such Owner or occupant (including lessees) fail to fulfill this duty or cure such violation within such period, then the Committee, or the Association, or their designated agents are hereby authorized to enter onto the premises and correct such violations and perform such care and maintenance as necessary without any liability for damages for wrongful entry, trespass or otherwise. The Owner of any lot on which such work is performed shall promptly reimburse the committee or the Association for such costs. If such Owner shall fail to reimburse the committee or the Association within thirty (30) days from and after delivery by the Association of an invoice setting forth the costs incurred for performing such work, then said indebtedness shall be a debt of the Owner and the Association may collect such debt in any manner permissible by law.

## ARTICLE VIII ARCHITECTURAL AND CONSTRUCTION RESTRICTIONS

- 8.01 Type of Residence. All Lots shall be used for single-family residential purposes only. The term "single-family" as used herein shall refer not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which shall be limited to a single family, as defined below. Single-family shall mean the use of and improvement to a Lot with no more than one building designed for and containing facilities for living, sleeping, cooking, and eating therein. In no case may a lot contain more than one Dwelling. No multi-family Dwellings may be constructed on any Lot. No building, outbuilding, or portion thereof shall be constructed for income property, such that occupancy would occupy less than the entire lot and/or homesite. Single-family use consists of use as a dwelling by one or more persons who are related by marriage or kinship and by not more than four (4) persons who are not related by marriage or kinship. However, Declarant, as well as any other person engaged in the construction and sale of residences on the

Property, shall have the right, during the construction and sales period, to use facilities as it deems reasonably necessary or convenient for its business purpose of constructing and selling residences on the Property.

- 8.02 Types of building permitted. No building shall be erected, altered, or permitted on any Lot other than one detached single-family dwelling not to exceed thirty-five (35) feet in height, with a private garage for not more than six (6) automobiles. However, Declarant, as well as any other person engaged in the construction and sale of Dwelling Units on the Property, with the approval of the Architectural Committee, shall have the right, during the construction and sales period, to construct and maintain such facilities as it deems reasonably necessary or convenient for its business of constructing and selling Dwelling Units on the Property, including, but not limited to, offices and storage areas.
- 8.03 Designs, Minimum Floor Area. Any Dwelling Unit constructed on a Lot must have the following minimum ground floor area, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages of gross square footage:
- (a) 1,850 square feet for one to one and a half story structure;
  - (b) 2,250 square feet for two (2) to three (3) story structures.
- 8.04 Exterior Building Materials Type of Constructions. The front and side exterior walls of any residence shall consist of not less than 75 percent masonry, stone, stucco, fiber cementitious product, i.e. HardiePlank, or other natural material construction, but vinyl or aluminum siding is allowed for trim and the rear exterior walls. All roofs shall be constructed of fireproof materials consisting of tile, natural slate, shingle, or artificial slate. No metal roof shall be allowed, with the exception of metal roof accents which shall not exceed ten percent (10%) of the total roof area, without prior approval of the Architectural Committee. All exterior colors, textures, and materials must be compatible not only with the specific design motif but also with adjacent and surrounding Lots, and over-all community appearance, as determined by the Architectural Committee.
- 8.05 Sidewalks. Each Owner agrees to pay, construct and maintain at Owner's expense a sidewalk of uniform construction with the other Lots, in accordance with specifications as determined by Declarant, and in accordance with the requirements of the City of Groves or any other governmental unit with jurisdiction. By accepting a conveyance of one or more Lots, each Owner agrees to assume the Declarant's responsibility to timely install a sidewalk across their Lot(s). If an Owner has not installed the appropriate sidewalk within such period of time, the Declarant may demand that the Owner install the sidewalk. If the Owner fails or refuses to do so in a timely manner, the Declarant reserves the right to install the sidewalk in order to comply with the City of Groves (or any other governmental unit with jurisdiction) requirements. In such event, the Owner shall reimburse the Declarant for the costs of such sidewalk within fourteen (14) days after receipt of notice from Declarant of the cost of installation of the sidewalk. In the event an Owner fails or refuses to timely reimburse Declarant for the cost of installing the sidewalk, the Declarant shall have a lien against the Owner's Lot(s) to secure the reimbursement of the costs of installation, together with interest at the rate of 10% per annum from the date Declarant incurs the cost of the sidewalk until paid. The Declarant shall have all of the rights to enforce the aforesaid lien in the

same manner as enforcement of unpaid Assessments and charges under Article IV above, including the power of sale and foreclosure.

- 8.06 Driveways. Each Owner shall provide and install, at their own expense, driveway approaches during construction of the Dwelling Unit in accordance to the City of Groves (or any other governmental unit with jurisdiction) requirements. Owner shall maintain the driveway at Owner's expense. Driveways shall be located along the fronting street. There shall be no more than one primary access to a Lot and direct access from the rear of any Lot to a street within the subdivision or a public street including Monroe Street is hereby prohibited.
- 8.07 Setbacks. No building shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building setback lines shown on the Plat. No front building setback line shall be less than 20 feet. No side building set back on interior (non corner) Lots shall be less than 5 feet. No side building set back on the street side of a corner lot shall be less than 10 feet. No rear building set back on any lot shall be less than 15 feet. For purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of the Dwelling Unit on any Lot to encroach upon another Lot except as provided in section 6.04. If two or more Lots, or portions of two or more Lots, are consolidated into a building site for a Dwelling Unit, these building setback requirements shall apply to the resulting building site as if it were one Lot.
- 8.08 Lot Consolidation. Any Owner owing two (2) or more adjoining Lots or portions of two (2) or more such Lots may, with the prior written approval of the Architectural Committee, consolidate such Lots or portions thereof into a single building site for a Dwelling Unit and such other improvements as are permitted herein, however, no such building site shall contain less than two thousand five hundred (2,500) square feet of living area. Any consolidated Lot shall comply with all requirements of any applicable statutes, ordinances, or regulation. On application by an Owner, the Board may adjust the Assessments on a consolidated Lot to an amount not less than the full Assessment rate for a single Lot. Absent such adjustment, a consolidated Lot shall bear the full Assessment rate applicable to all Lots as if not consolidated.
- 8.09 Garages, Carports, and Porte Cocheres. A garage must be constructed and maintained to accommodate at least two (2) full-size passenger vehicles for each Dwelling Unit. Each driveway must accommodate two (2) vehicles in front of the garage for off-street parking requirements. Rear detached garages are permitted. No garage shall be permanently enclosed for conversion to any other use. Open carports are not permitted, unless special design circumstances warrant their use and unless approved in writing by the Architectural Committee. Porte Cocheres shall not extend more than twenty feet (20') from the front of any Dwelling Unit toward the street fronting such Lot. Lots may have one (1) or two (2) story garages.
- 8.10 Landscaping. Within six months of purchase, each Owner shall spend an initial sum of not less than one (1) percent of the total cost of the Lot and Dwelling Unit for ornamental plants, trees, shrubs, and flowers to be planted in the front yard of the home. No soil shall be removed from any Lot unless contemplated by drawings and plans submitted to and approved by the

Architectural Committee. Final grades of all Lots must also conform to grading plans and elevations approved by the City of Groves or any other governmental unit with jurisdiction.

8.11 Utility Connections and Fees. Owner shall construct, furnish, or install all on-site utilities extensions. Owner further agrees to pay any utility deposit or charge, including any connection, tap, or inspection fee, for water, sewer, electrical, gas, telephone, cable television, or other utility service.

8.12 Care During Construction. Owner shall take all reasonable precautions to minimize interference with traffic and to protect the general public, Owners, and the Property from injury from movement of vehicular traffic during construction of each Dwelling Unit. In addition, and without limiting the generality of the foregoing, Owner agrees to the following:

(a) Storage of Building Materials. Building materials stored on a Lot will be kept in a neat condition so as not to detract from the appearance of the neighborhood and so as to give the visual impression from adjacent streets of a clean, orderly work site.

(b) Scrap Materials and Trash. Owner agrees to keep scrap materials and trash produced in connection with the construction of a Dwelling Unit confined to a particular area of on the Lot, preferably to the side, or behind, the Dwelling Unit under construction. Trash will be placed in a wire mesh, or solid container within such area at the end of each workday and removed from the Lot frequently enough so that trash does not overflow from such container.

(c) Clean Road and Utilities. Owner agrees to protect pavement, curbs, and gutters, swales, or drainage course, streets, utility structures, fire hydrants, manhole covers, valve boxes, and second stage inlets and other property contiguous to, in the vicinity of, or leading to same clear of equipment, building materials, dirt, debris, and similar materials. Owner further agrees to maintain in good functional condition, storm water pollution prevention materials adequate to comply with guidelines promulgated by the Environmental Protection Agency and any other governmental authority.

(d) Initial Construction Period. Unless otherwise specified in the deed of conveyance, an Owner shall complete construction of the dwelling no later than 240 days from the commencement of construction. Commencement of construction is defined for purposes of this paragraph as the first day of visible improvements and on-site construction. Site demolition, clearing, and grading are non-visible improvements for the purpose of this paragraph. Failure to complete construction within 240 days gives Developer the unilateral right, but not the obligation, to repurchase the property for the price Developer was originally paid for the lot without regard to additional costs incurred by current owner.

## ARTICLE IX ARCHITECTURAL STANDARDS

9.01 Architectural Committee. Declarant shall designate and appoint an Architectural Committee consisting of not less than three (3) members, but not more than five (5) members, which shall

have exclusive jurisdiction over all construction until one hundred percent (100%) of the Property has been conveyed to Owners in the normal course of development and sale. The Declarant retains the right to appoint all members of the Architectural Committee, who shall serve at the discretion of the Declarant. The initial members are Thomas F. Cormier, Jeff Brushaber and James McCrate. After the Declarant no longer owns any Lot, the Architectural Committee shall serve at the pleasure of the Board.

#### 9.02 Approval Required Procedures.

- (a) No structure shall be placed, erected, or installed upon any Lot, no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of existing improvements, and no planting or removal of plants, trees, or shrubs shall take place except in strict compliance with this article, until the requirements below have been fully met, and until the written approval of the Architectural Committee has been obtained pursuant to Section 9.02 and 9.03 below. Such improvements include, but are not limited to, the construction or installation of Dwelling Units, sidewalks, driveways, decks, patios, garages, guest or servant's quarters, or other outbuilding. No such construction or exterior addition to or change or alteration in the nature, color, type, shape, height, materials, and location of the same shall be made unless plans and specifications for same have been submitted to and approved in writing by the Architectural Committee. Design guidelines may be published by the Architectural Committee from time to time, including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Architectural Committee, and the other copy shall be returned to the Owner marked "approved," "approved with conditions as noted," or "disapproved" Notwithstanding the foregoing, no permission or approval shall be required to paint in accordance with an originally approved color scheme, or to rebuild in accordance with the originally approved plans and specifications. The Architectural Committee shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable.
- (b) Following written approval of any plans and specifications by the Architectural Committee, representatives of the Architectural Committee shall have the right, but not the obligation, during reasonable hours to enter upon and inspect any Lot or Dwelling Unit under construction to determine whether the plans and specifications are being complied with. In the event the Architectural Committee determines that the plans and specifications have not been approved or are not being complied with, the Architectural Committee is entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. The Architectural Committee shall have sixty (60) days after such plans and specifications are submitted to it to review and approve or disapprove the same, in whole or part. In the event the Architectural Committee fails to approve or disapprove in writing any proposed plans and specifications within the timeframe stated above, such plans and specifications will be deemed to have been approved, and no further approval under this Article shall be required, unless such construction has not substantially commenced (e.g., clearing of grading, pouring of footing,



etc..) within six (6) months of the approval of such plans and specifications or unless such plans and specifications are materially altered or changed. Disapproval of plans and specifications by the Architectural Committee may be based upon any ground which is consistent with the objectives and purposes of this Declaration as defined in the design guidelines promulgated by the Architectural Committee from time to time, including purely aesthetic considerations.

- (c) The Board of Directors or Architectural Committee may establish reasonable fees to be charged by the committee on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application. All Dwelling Units constructed on any portion of the Property shall be designed by and built in accordance with the plans and specification

9.03 **NO LIABILITY:** NO APPROVAL OF PLANS AND SPECIFICATIONS AND NO PUBLICATION OF DESIGN GUIDELINES SHALL BE CONSTRUED AS REPRESENTING OR IMPLYING THAT SUCH PLANS, SPECIFICATIONS, OR DESIGN GUIDELINES WILL, IF FOLLOWED, RESULT IN PROPERLY DESIGNED IMPROVEMENTS. SUCH APPROVALS AND DESIGN GUIDELINES SHALL IN NO EVENT BE CONSTRUED AS REPRESENTING OR GUARANTEEING THAT ANY RESIDENCE OR OTHER IMPROVEMENTS BUILT IN ACCORDANCE THEREWITH WILL BE BULT IN A GOOD AND WORKMANLIKE MANNER. REVIEW AND APPROVAL OF ANY APPLICATION PURSUANT TO THIS ARTICLE IS MADE ON THE BASIS OF RETAINING THE CHARACTERISTICS OF A FIRST CLASS RESIDENTIAL SUBDIVISION AND AESTHETIC CONSIDERATIONS ONLY AND NEITHER THE ARCHITECTURAL COMMITTEE NOR THE DECLARANT SHALL BEAR ANY RESPONSIBILITY FOR ENSURING THE STRUCTURAL INTEGRITY OR SOUNDNESS OF APPROVED CONSTRUCTION OR MODIFICATONS, OR ENSURING COMPLIANCE WITH BUILDING CODES AND OTHER GOVERNMENTAL REQUIREMENTS. NEITHER THE DECLARANT, THE 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 APPROVAL OR DISAPPROVAL OF OR NON-COMPLIANCE WITH ANY PLANS OR SPECIFICATIONS, THE MANNER OR QUALITY OF APPROVED CONSTRUCTION ON OR MODIFCATIONS TO ANY DWELLING UNIT.

9.04 **Indemnification.** Each member or former member of the Architectural Committee shall be indemnified by the Association against all loss, costs, damages and expenses, including reasonable attorney's fees, incurred by or imposed in connection with any claim, action, suit, including criminal proceedings, to which such person is threatened to be made a party by reason or service as a member, except as to matters resulting in a final determination of gross negligence or willful misconduct on the part of such member. In the event of settlement of such proceeding, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct. All liability, loss, damage, costs and expenses incurred by the Association in connection with this indemnification shall be common expense.

- 9.05 Variance. The Developer or their assigns may authorize variances from compliance with any of the provisions of this Declaration or minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Developer, when circumstances such as topography, natural obstructions, Lot configurations, Lot size, hardship, aesthetic or environmental considerations may require a variance. The Developer reserves the right to grant variances as to building set-back lines, minimum square footage of the residence and other items. Such variances must be evidenced in writing and shall become effective when signed by the Developer. If any such variances are granted, no violations of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance effect in any way the Owner's obligations to comply with all governmental laws and City of Groves regulations affecting the property concerned and the Plat.

## ARTICLE X GENERAL PROVISIONS

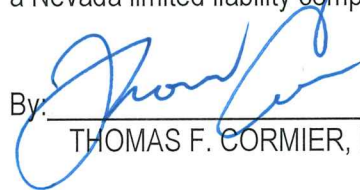
- 10.01 Enforcement. The Declarant or the Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations imposed by this Declaration. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.
- 10.02 Registration with the Association. Each and every Owner, Member, and Resident shall have an affirmative duty and obligation to provide to the Association, and thereafter revise and update, within thirty (30) days after any change, such information as (a) full name and address of each owner (b) emergency contact information and (c) other information as may be reasonably requested from time to time by the Board.
- 10.03 Notices to Resident/Member/Owner. Any notice to be given to any Resident, Member, or Owner under the provisions of this Declaration shall be deemed to have been properly delivered if mailed by first class mail, addressed to the last-known address of the person who appears as the Resident, Member or Owner on the records of the Association at the time of such mailing.
- 10.04 Notices to Mortgagees. The holder(s) of a mortgage may be furnished with written notification from the Association of any default by the respective mortgagor/Member/Owner in the performance of such Mortgagor's/Member's/Owner's obligation(s) as established by this Declaration, provided that the Association has been theretofore furnished, in writing, with the correct name and address of such mortgage holder(s) and a request to receive such notification and a reasonable supply of self-addressed, stamped envelopes.
- 10.05 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

- 10.06 Covenants Running with the Land. These easements, restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the Property and shall be binding on all parties having any right, title, or interest in the Property in whole or in part, and their heirs, successors, and assigns. These easements, covenants, conditions, and restrictions shall be for the benefit of the Property, each Lot, and each Lot Owner.
- 10.07 Disputes. Matters of dispute or disagreement between Owners, Residents, or Members with respect to interpretation or application of the provisions of this Declaration or the Association bylaws shall be determined by the Board. These determinations (absent arbitrary or gross negligence) shall be final and binding upon all Owners, Residents, and Members.
- 10.08 Duration and Amendment. The covenants, conditions, and restrictions of this Declaration shall be effective for a term of 20 years from the date this Declaration is recorded, after which period the covenants, conditions, and restrictions shall be automatically extended for successive periods of 10 years subject to termination by an instrument signed by more than 75 percent of the Owners. The covenants, conditions, and restrictions of this Declaration may be amended by an instrument signed by more than 75 percent of the Owners. However, the Declarant can change or amend these covenants, conditions, and restrictions so long as Declarant owns at least 20% of the Lots, without the joinder of any other party. Neither any amendment nor any termination shall be effective until recorded in the Official Public Records of Jefferson County, Texas, and all requisite governmental approvals, if any, have been obtained.
- 10.10 Attorney's Fees. If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.
- 10.11 Liberal Interpretation. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.
- 10.12 Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners, the Developer and the Association, and their respective heirs, legal representatives, executors, administrators, successors and assigns.
- 10.13 Terminology. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa. Title of Articles and sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself. The terms "herein", "hereof" and similar terms as used in this instrument refer to the entire agreement and are not limited to refer only to the specific paragraph, section or article in which such term appear.

This Declaration is executed this 28 day of August, 2018.

INDIAN SPRINGS ACH, LLC, a Texas limited liability company

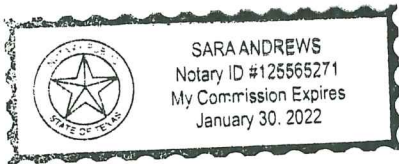
By: ALBANESE CORMIER HOLDINGS LLC,  
a Nevada limited liability company, Manager

By:   
THOMAS F. CORMIER, Manager

STATE OF TEXAS §

COUNTY OF JEFFERSON §

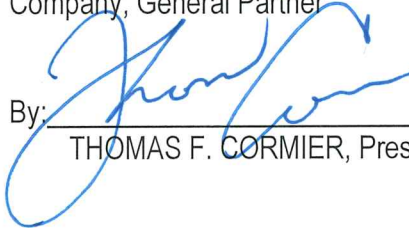
This instrument was acknowledged before me on the 28 day of August, 2018 by THOMAS F. CORMIER, Manager of ALBANESE CORMIER HOLDINGS, LLC, a Nevada limited liability company, Manager of INDIAN SPRINGS ACH, LLC, A Texas limited liability company.



  
Notary Public, State of Texas

DJM CONTRACTORS, LTD., a Texas Limited Partnership

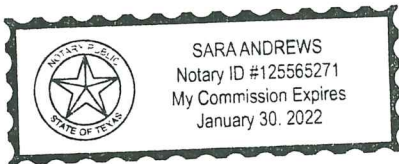
By: DJM MANAGEMENT, LLC, a Texas Limited Liability Company, General Partner

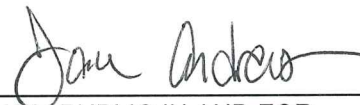
By:   
THOMAS F. CORMIER, President

THE STATE OF TEXAS §


COUNTY OF Jefferson §

This instrument was acknowledged before me on the 28<sup>th</sup> day of August, 2018 by THOMAS F. CORMIER, President of DJM MANAGEMENT, LLC, a Texas Limited Liability Company, General Partner of DJM CONTRACTORS, LTD., a Texas Limited Partnership, on behalf of said Texas Limited Partnership.



  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

FIRST NATIONAL BANK OF LOUISIANA


By:   
GREG WEBB

Title: Market President  
Southwest Louisiana

THE STATE OF Louisiana §

COUNTY/PARISH OF Calcasieu §

This instrument was acknowledged before me on the 29 day of August, 2018  
by GREG WEBB, as Market President on behalf of FIRST NATIONAL BANK OF  
LOUISIANA.

  
NOTARY PUBLIC IN AND FOR  
THE STATE OF Louisiana

**After recording, please return to:**

Thomas Cormier  
350 Pine Street, Suite 800  
Beaumont, Texas 77701

Blake McCaskill  
Notary Public  
Parish of Calcasieu  
Louisiana  
Notary ID No. 039422  
Expires at Death