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Brazos County, TX
Karen McQueen
County Clerk

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********** THIS PAGE IS PART OF THE INSTRUMENT **********

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

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

Honorable Karen McQueen, County Clerk, Brazos County

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for BARRON CROSSING

Return to:

Rick S. Butler
Roberts Markel Weinberg Butler Hailey, P.C.
2800 Post Oak Blvd., Suite 5777
Houston, TX 77056

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BARRON CROSSING

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

THIS DECLARATION is made on the date hereafter set forth by BCS Development Company, a Texas Corporation ("**Declarant**").

WHEREAS, Declarant is the owner of the following real property in Brazos County, Texas:

> Barron Crossing, a subdivision in Brazos County, Texas according to map or plat thereof recorded under Document No. 01243771 of the Official Public Records of Brazos County, Texas

and

WHEREAS, Declarant desires to establish and preserve a general and uniform plan for the improvement, development, sale and use of such real property (and any other real property that may be annexed and subjected to the provisions of this Declaration) for the benefit of the present and future owners of lots therein;

NOW, THEREFORE, Declarant hereby declares that the "**Property**", as defined herein, will be held, transferred, sold, conveyed, occupied and enjoyed subject to the covenants, conditions, restrictions, easements, liens and charges set forth in this Declaration, as such Declaration may be hereafter amended and supplemented.

ARTICLE I.
DEFINITIONS

As used in this Declaration, the terms set forth below have the following meanings:

A. **ANNUAL MAINTENANCE CHARGE** - The annual assessment made and levied by the Association against each Owner and the Owner's Lot in accordance with the provisions of this Declaration, the amount of which will be paid monthly as provided in Article V of this Declaration.

B. **ARCHITECTURAL REVIEW COMMITTEE** - The Architectural Review Committee established and empowered in accordance with Article III of this Declaration.

C. **ASSOCIATION** - Barron Crossing Subdivision Owners Association, Inc., a Texas non-profit corporation, its successors and assigns.

D. **BOARD or BOARD OF DIRECTORS** - The Board of Directors of the Association.

E. **BYLAWS** - The Bylaws of the Association.

F. **CERTIFICATE OF FORMATION** - The Certificate of Formation of the Association.

G. **COMMON AREA** - Any real property and Improvements thereon owned or maintained by the Association for the common use and benefit of the Owners.

H. **COMMUNITY** - The Property, together with all Improvements now or hereafter situated thereon and all rights and appurtenances thereto.

I. **DECLARANT** - BCS Development Company, a Texas corporation, its successors and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the Official Public Records of Brazos County, Texas.

J. **DEVELOPMENT PERIOD** - The period during which Declarant may appoint and remove directors and the officers of the Association, other than directors elected by Owners other than Declarant, as provided in the Bylaws of the Association. The Development Period will exist for ten (10) years from the date this Declaration is recorded or the date that Declarant no longer owns a Lot subject to the provisions of this Declaration, whichever date is the last to occur, unless Declarant terminates the Development Period on an earlier date by an instrument duly executed by Declarant and recorded in the Official Public Records of Brazos County, Texas.

K. **IMPROVEMENT** - Any Townhouse, building, structure, fixture, or fence on a Lot, any transportable structure placed on a Lot, whether or not affixed to the land, and any addition to, or modification of an existing Townhouse, building, structure, fixture or fence on a Lot.

L. **LOT or LOTS** - Each of the Lots shown on the recorded Plat.

M. **MAINTENANCE FUND** - Any accumulation of the Annual Maintenance Charges collected by the Association in accordance with the provisions of this Declaration and interest, penalties, assessments and other sums and revenues collected by the Association pursuant to the provisions of this Declaration.

N. **MEMBER or MEMBERS** - All Owners who are Members of the Association as provided in Article IV of this Declaration.

O. **MORTGAGE** - A security interest, mortgage, deed of trust, or lien instrument granted by an Owner to secure the payment of a loan made to such Owner, duly recorded in the Official Public Records of Brazos County, Texas, and creating a lien or security interest encumbering a Lot and the Improvements thereon.

P. **OWNER or OWNERS** - Any person or persons, firm, corporation or other entity or any combination thereof that is the record Owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.

Q. **PARTY WALL** – A wall constructed on or adjacent to the common lot line for two (2) adjacent Lots which separates two (2) adjacent Townhouses while, at the same time, serving as a perimeter wall for each Townhouse.

R. **PLAT** - The plat for Barron Crossing recorded under Document No. 01243771 of the Official Public Records of Brazos County, Texas; the plat for any other section of the Community hereafter annexed and subjected to the provisions of this Declaration recorded in the Official Public Records of Brazos County, Texas; and any replat of any such plat.

S. **PUBLIC ALLEY** - Each Public Alley shown on the Plat.

T. **PROPERTY** - Barron Crossing, a subdivision in Brazos County, Texas as shown on the Plat and any other property that may be subjected to the provisions of this Declaration by

annexation document duly executed by Declarant and recorded in the Official Public Records of Brazos County, Texas. There are a total of 78 Lots that may be created and made a part of the Property, the subject of this Declaration, and the jurisdiction of the Association. Declarant reserves the right to facilitate the development, construction, and marketing of the Property and the right to direct the size, shape, and composition of the Property until such time that all of the Lots that may be created have been made a part of the Property, the subject of this Declaration, and the jurisdiction of the Association, and such Lots have been conveyed to Owners other than Declarant.

U. **TOWNHOUSE** -The Townhouse constructed on a Lot for single family residential use. A Townhouse will have one (1) or two (2) internal Party Walls with one (1) or two (2) immediately adjoining Townhouse(s). A Townhouse may not exceed two (2) stories in height. Unless otherwise indicated by context, "Townhouse" includes the Lot on which the Townhouse is located.

V. **RULES AND REGULATIONS** - Rules and Regulations adopted from time to time by the Board concerning the management and administration of the Community for the use, benefit and enjoyment of the Owners, including Rules and Regulations governing the use of any Common Area.

W. **UTILITY COMPANY or UTILITY COMPANIES** - Any public entity, utility district, governmental entity (including without limitation, districts created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution) or one or more private entities that regulate, provide or maintain utilities and drainage.

ARTICLE II.
PROVISIONS RELATING TO USE, PERMITTED IMPROVEMENTS AND ARCHITECTURAL DESIGN

SECTION 2.1.USE RESTRICTIONS.

A. SINGLE FAMILY RESIDENTIAL USE.

Each Owner must use his Lot and the Townhouse on his Lot for single family residential purposes only. As used herein, the term "single family residential purposes" is deemed to specifically prohibit, but without limitation, the use of a Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the Townhouse for residential purposes. As used herein, the term "unobtrusive" means, without limitation, that there is no business, professional or commercial related sign, logo or symbol displayed on the Lot; there is no business, professional or commercial related sign, logo or symbol displayed on any vehicle on the Lot; there are no clients, customers, employees or the like who go to the Lot for any business, professional or commercial related purpose on any regular basis; and the conduct of the business, professional, or commercial activity is not otherwise apparent by reason of noise, odor, vehicle and/or pedestrian traffic and the like.

An Owner of a Lot is entitled to lease the Lot only for single family residential purposes. No Owner is permitted to lease the Owner's Lot for hotel or transient purposes. For purposes of

this Section, a lease term that is less than six (6) months is deemed to be a lease for hotel or transient purposes. Every lease must provide that the lessee is bound by and subject to all the obligations under this Declaration and a failure to do so will be a default under the lease. The Owner making such lease is not relieved from any obligation to comply with the provisions of this Declaration. No Owner is permitted to lease a room in the Townhouse on a Lot or any portion less than the entirety of the Lot and Townhouse and other Improvements on the Lot.

No garage sale, rummage sale, estate sale, moving sale or similar type of activity is permitted on a Lot.

B. PASSENGER VEHICLES.

Except as provided in Section 2.1.D, below, no Owner, lessee, or occupant of a Lot, including all persons who reside with such Owner, lessee or occupant of the Lot, may park, keep or store any vehicle on the Lot which is visible from a street or Public Alley in the Community or any neighboring Lot other than a passenger vehicle or pick-up truck and then only if parked on the driveway for a period not exceeding forty-eight (48) consecutive hours. For purposes of this Declaration, the term "passenger vehicle" is limited to (a) a vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas and (b) a sport utility vehicle used as a family vehicle (whether or not the sport utility vehicle displays a passenger or truck vehicle license plate), neither of which displays any type of business or commercial logo or advertising. The term "pick-up truck" is limited to a three-quarter (3/4) ton capacity pick-up truck which has not been adapted or modified for commercial use and does not display any type of business or commercial logo or advertising. No passenger vehicle or pick-up truck may be parked in a Public Alley for any length of time. No passenger vehicle or pick-up truck may be parked on any unpaved portion of a Lot. No guest of an Owner, lessee or other occupant of a Lot is entitled to park a vehicle in a Public Alley for any length of time or on an uncovered portion of the driveway of a Lot for a period longer than forty-eight (48) consecutive hours. In all instances, parking on the driveway of a Lot is permitted only if the length of the driveway is sufficient to accommodate the vehicle; a vehicle parked on a driveway is not permitted to extend or protrude, to any extent, in a Public Alley.

No inoperable vehicle of any kind may be parked, kept or stored on a Lot if visible from a street or Public Alley in the Community. As used herein, a vehicle is deemed to be inoperable if it does not display all required current permits and licenses, it is on a jack or does not have fully inflated tires, it is covered by a tarp, or it is not otherwise capable of being legally operated on a public street or right of way.

C. OTHER VEHICLES.

No pick-up truck in excess of three-quarter (3/4) ton capacity, mobile home trailer, utility trailer, recreational vehicle, boat or the like may be parked, kept or stored on a Lot if visible from a street or Public Alley in the Community. A pick-up truck in excess of three-quarter (3/4) ton capacity, mobile home trailer, utility trailer, recreational vehicle or boat may be parked in the garage on a Lot; however, if parked in the garage, there must be adequate space in the garage and on the driveway for all passenger vehicles used or kept by the Owner, lessee, or occupant of the Lot.

D. VEHICLE REPAIRS.

No passenger vehicle, pick-up truck, mobile home trailer, utility trailer, recreational vehicle, boat or other vehicle of any kind may be constructed, reconstructed, or repaired on a Lot within the Community if visible from a street or Public Alley in the Community.

E. NUISANCES.

No rubbish or debris of any kind may be placed or is permitted to accumulate on or adjacent to a Lot and no odors are permitted to arise therefrom, so as to render the Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot or to its occupants. No nuisance is permitted to exist on a Lot. For the purpose of this Section, a nuisance is any activity or condition on a Lot which is reasonably considered to be an annoyance to surrounding residents of ordinary sensibilities or which may reduce the desirability of the Lot or a surrounding Lot. The Board of Directors is authorized to determine whether an activity or condition on a Lot constitutes a nuisance or is offensive and its reasonable, good faith determination will be conclusive and binding on all parties.

F. TRASH.

No garbage or trash, or garbage or trash container, may be maintained on a Lot if visible from a street or Public Alley in the Community. Garbage and trash must be placed in tied trash bags and placed in the dumpsters provided for the Community.

G. CLOTHES DRYING.

No outside clothesline or other outside facilities for drying or airing clothes may be erected, placed or maintained on a Lot. No clothes may be aired or dried outside if visible from a street or Public Alley in the Community.

H. ANIMALS.

A maximum of three (3) generally recognized house or yard pets may be maintained on a Lot but only if they are kept thereon solely as domestic pets and not for commercial purposes. For purposes of this Section, all types of pigs, including without limitation, Vietnamese pot-bellied pigs, are deemed not to be generally recognized house or yard pets and are prohibited. No generally recognized house or yard pet is allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any generally recognized house or yard pet may maintained on a Lot if visible from a street or Public Alley in the Community. With the exception of all types of pigs, which are prohibited, the Board has the authority to determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal or bird is a generally recognized house or yard pet and a particular animal or bird is a nuisance, and its reasonable, good faith determination will be conclusive and binding on all parties.

I. RESTRICTION ON FURTHER SUBDIVISION.

No Lot as shown on the Plat may be further subdivided, and no portion less than the entirety of a Lot as shown on the Plat may be conveyed by any Owner.

J. CONSOLIDATION OF LOTS.

The consolidation of adjoining Lots into one (1) building site is prohibited.

K. SIGNS.

No signs whatsoever (including but not limited to commercial, political and similar signs) may be erected or maintained on a Lot if visible from a street or Public Alley in the Community, except:

(i) Street signs and such other signs as may be required by law;
(ii) During the Development Period, but only with express approval by Declarant, one (1) builder identification sign of a size and design designated by Declarant;
(iii) Ground mounted political signs as permitted by law; and
(iv) Home security signs and school spirit signs, but only as authorized by the Architectural Review Committee.

No sign of any kind may be displayed on a vehicle parked on a Lot or in a street in the Community except for a vehicle owned or operated by a service provider and then only during the period in which services are being performed on a Lot by that service provider.

During the Development Period, "For Sale" and "For Lease" signs are prohibited in the Community except "For Sale" signs placed on Lots by Declarant. After the Development Period expires, one (1) ground mounted "For Sale" sign which does not exceed six (6) square feet is permitted in the front yard of a Lot. No sign is permitted on Common Area with the exception of a sign placed on Common Area by Declarant during the Development Period and, thereafter, the Association. Declarant, during the Development Period and, thereafter, the Association, has the authority to go upon a Lot and remove a sign displayed on the Lot or Common Area in violation of this Section and dispose of the sign without liability in trespass or otherwise.

L. TREE REMOVAL.

As provided in Section 2.3.I. of this Declaration, all landscape areas within the Community will be maintained by the Association. Accordingly, no Owner is permitted to remove a tree from the Owner's Lot.

M. FLAGS.

Section 202.011 of the Texas Property Code provides that a property Owners' association may not enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting a flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces, except as otherwise provided therein. The following provisions are be applicable to flagpoles and the three (3) types of flags listed in Section 202.011 of the Texas Property Code:

(a) ARC Approval. A flagpole that does not comply with all setbacks and above-ground flagpole stands and/or footings must be approved by the Architectural Review Committee. Additionally, in order to confirm a proposed flagpole conforms to the following standards, Owners are encouraged to apply to the Architectural Review Committee for prior approval. The Association may require an Owner to remove flagpoles, flagpole footings, or flags that do not comply with this Section.

(b) Flag of the United States. The flag of the United States must be displayed in accordance with applicable provisions of 4 U.S.C. Sections 5-10, which address, among other things, the time and occasions for display, the position and manner of display, and respect for the flag.

(c) Flag of the State of Texas. The flag of the State of Texas must be displayed in accordance with applicable provisions of Chapter 3100 of the Texas Government Code, which address, among other things, the orientation of the flag on a flagpole or flagstaff, the display of the flag with the flag of the United States of America, and the display of the flag outdoors.

(d) Flagpoles.

(i) Not more than one (1) freestanding flagpole or flagpole attached to the Townhouse (on a permanent or temporary basis) is permitted on a Lot.

(ii) A freestanding flagpole may not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole.

(iii) A flagpole attached to the Townhouse may not exceed six (6) feet in length.

(iv) A flagpole, whether freestanding or attached to the Townhouse, must be constructed of permanent, long-lasting materials with a finish appropriate to materials used in the construction of the flagpole and harmonious with the Townhouse on the Lot on which it is located. A flagpole, whether freestanding or attached to the Townhouse, must be a dark color, such as black, brown, bronze or silver; a flagpole may not be a primary color or white.

(v) A flagpole may not be located in an easement or encroach into an easement.

(vi) A freestanding flagpole may not be located nearer to a property line of the Lot than the applicable setbacks as either shown on the recorded plat or as set forth in this Declaration. Provided, with prior Architectural Review Committee approval, a freestanding flagpole may be located up to five feet (5') in front of the front building setback line for a Lot. Above-ground stands and/or footings also require Architectural Review Committee approval.

(vii) A flagpole must be maintained in good condition; a deteriorated or structurally unsafe flagpole must be repaired, replaced or removed.

(viii) An Owner is prohibited from locating a flagpole on property owned or maintained by the Association.

(ix) A freestanding flagpole must be installed in accordance with the manufacturer's guidelines and specifications.

(x) If the footing and/or stand for a freestanding flagpole extends above the surface of the ground, the Architectural Review Committee may require the installation of landscaping to screen the stand and/or footing from view.

(e) Flags.

(i) Unless otherwise expressly provided in the Architectural Guidelines, only the three (3) types of flags addressed in this Section may be displayed on a freestanding flagpole. Other types of flags may be displayed on a wall-mounted flagpole as otherwise permitted by the Association.

(ii) Not more than two (2) of the permitted types of flags may be displayed on a flagpole at any given time.

(iii) The maximum dimensions of a displayed flag on a freestanding flagpole that is less than fifteen (15) feet in height or on a flagpole attached to the Townhouse is three (3) feet by five (5) feet.

(iv) The maximum dimensions of a displayed flag on a freestanding flagpole that is fifteen (15) feet in height or greater is four (4) feet by six (6) feet.

(v) A displayed flag must be maintained in good condition; a deteriorated flag must be replaced or removed.

(vi) A flag must be displayed on a flagpole. A flag may not be attached to the wall of the Townhouse or other structure on a Lot or a fence, or be displayed in a window of the Townhouse or other structure on a Lot.

(f) Illumination. It is the universal custom to display the flag of the United States of America only from sunrise to sunset. Likewise, the flag of the State of Texas should not normally be displayed outdoors before sunrise or after sunset. Accordingly, illumination of a flagpole or flag is not permitted.

(g) Noise. An external halyard on a flagpole is required to be securely affixed to the flagpole so that it is not moved by the wind and thereby permitted to clang against the flagpole.

N. RELIGIOUS ITEMS.

Section 202.018 of the Texas Property Code provides that a property Owners' association may not enforce or adopt a restrictive covenant that prohibits a property Owner or resident from displaying or affixing on the entry to the Owner's or resident's dwelling one or more religious items, the display of which is motivated by the Owner's or resident's sincere religious belief, except as otherwise provided therein. Section 202.001(4) of the Texas Property Code defines "restrictive covenant" to mean any covenant, condition, or restriction contained in a dedicatory instrument. The following provisions are applicable to the display of religious items on a Lot:

(a) ARC Approval. As authorized by this Declaration and, therefore, allowed by Section 202.018(c) of the Texas Property Code, any alteration to the entry

door or door frame must first be approved by the Architectural Review Committee.

(b) Location. Except as otherwise provided in this Section, a religious item is not permitted anywhere on a Lot except on the entry door or door frame of the Townhouse. A religious item may not extend past the outer edge of the door frame.

(c) Size. The religious item(s), individually or in combination with each other religious item displayed or affixed on the entry door or door frame, may not have a total size of greater than twenty-five (25) square inches.

(d) Content. A religious item may not contain language, graphics, or any display that is patently offensive to persons of ordinary sensibilities.

(e) Limitation. A religious item may not be displayed or affixed on an entry door or door frame if it threatens the public health or safety or violates a law.

(f) Color of Entry Door and Door Frame. An Owner or resident is not permitted to use a color for an entry door or door frame of the Owner's or resident's Townhouse or change the color of an entry door or door frame that is not authorized by the Board.

(g) Seasonal Decorations. The provisions of this Section is not applicable to temporary, seasonal decorations relating to religious holidays.

O. COMMON AREA.

The use of the Common Area must be in strict accordance with Rules and Regulations governing the Common Area adopted and published by the Board of Directors. Each Owner or other person who uses the Common Area does so at his/her own risk.

P. EXEMPTIONS.

No provision in this Declaration will be construed to prevent Declarant, or its duly authorized agents, from erecting or maintaining structures or signs on Lots or Common Area necessary or convenient to the development, construction, advertisement, sale, operation or other disposition of property within the Community. "Structures" include, without limitation, temporary construction trailers, office trailers, and sales trailers. In addition, Declarant reserves the right and authority during the Development Period or as long as Declarant has architectural control authority over new Townhouse construction, whichever is longer, to use the Townhouse on any Lot it owns as a model home and/or sales office. Any bank or other lender providing financing to Declarant in connection with the development of the Community or the construction of Improvements thereon may erect signs on Lots owned by Declarant and/or the Common Area to identify such lender and the fact that it is supplying such financing.

SECTION 2.2. DECORATION, ALTERATION, MAINTENANCE, AND REPAIR.

A. DECORATION AND ALTERATION

Subject to the provisions of this Declaration, each Owner has the right to modify, alter, repair, decorate, redecorate or improve the Townhouse and other Improvements on such

Owner's Lot, provided that each modification, alteration, decoration, redecoration or Improvement complies with any guidelines adopted and published by Declarant or the Board of Directors of the Association and each exterior modification, alteration, decoration, redecoration or Improvement has been approved in writing by the Architectural Review Committee. Notwithstanding the foregoing, the Architectural Review Committee has the authority to require an Owner to remove or eliminate any exterior modification, alteration, decoration, redecoration or Improvement on an Owner's Lot or the Townhouse or other Improvement on the Lot if (a) the item does not comply with recorded guidelines, (b) the item was not approved in writing by the Architectural Review Committee prior to construction and will not be approved by the Architectural Review Committee as built, or (c) in the Architectural Review Committee's sole judgment, the object detracts from the visual attractiveness of the Community.

B. OWNER MAINTENANCE.

As provided in Section 2.3.I., of this Declaration, the landscaping within the Community will be maintained by the Association. In addition, as provided in Section 2.5.A. of this Declaration, the rear yard area of each Lot will be enclosed by a fence. The Owner of each Lot is required to maintain, repair and replace, as necessary, the fence on the Owner's Lot. The Board of Directors has the exclusive authority to determine whether an Owner is maintaining the fence on the Owner's Lot in a reasonable manner and in accordance with the standards of the Community and the Board of Director's determination will be conclusive and binding on all parties. In the event the Owner or occupant of any Lot fails to maintain the fence on the Lot in a reasonable manner as required by this Declaration and such failure continues after ten (10) days written notice from the Association, or such longer period, if required by law, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon the Lot and cause the fence on the Lot to be repaired or replaced and to otherwise secure compliance with this Declaration, and charge the Owner of such Lot for the cost of such work. The Owner agrees by the purchase of Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges is secured by the lien created in Article V of this Declaration. Interest thereon at the rate of twelve percent (12%) per annum or the maximum, non-usurious rate, whichever is less, will begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

SECTION 2.3. EXTERIOR ELEMENTS.

NOTICE: GIVEN THE SIZES OF LOTS AND THE GENERAL PLAN AND SCHEME FOR THE DEVELOPMENT OF THE COMMUNITY, VARIOUS TYPES OF EXTERIOR IMPROVEMENTS INCLUDING, WITHOUT LIMITATION, SWIMMING POOLS, PLAY STRUCTURES, STORAGE BUILDINGS, AND BASKETBALL GOALS, ARE PROHIBITED.

A. TYPES OF BUILDINGS.

No building may be erected, altered, placed or permitted to remain on a Lot other than one (1) Townhouse [which includes a garage for not more than two (2) vehicles].

B. TEMPORARY STRUCTURES.

No building or structure of a temporary character, may be placed on a Lot, either temporarily or permanently. No residence house, garage or other structure may be moved onto a Lot from another location. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of Townhouses and construction of other Improvements in the Community.

C. GARAGES/CARPORTS.

No carport may be constructed on a Lot. Garages must be provided for all Townhouses. All garages must be enclosed by metal or wood garage doors with a paneled design that are harmonious in quality and color with the exterior of the Townhouse. Each garage on a Lot is required to be used for housing vehicles used or kept by the persons who reside on the Lot. Garage doors are required to be closed except as necessary for vehicle ingress or egress.

D. AIR CONDITIONERS.

No window, roof or wall type air conditioner that is visible from a street or Public Alley in the Community may be used, placed or maintained on or in a Townhouse or other Improvement.

E. ANTENNAS.

Satellite dish antennas which are forty (40) inches or smaller in diameter and antennas designed to receive television broadcast signals may be installed, provided they are installed in the least obtrusive location that allows reception of an acceptable quality signal. All other antennas are prohibited.

F. EXTERIOR LIGHTING AND SECURITY CAMERAS.

All exterior lighting on a Lot must be approved in writing by the Architectural Review Committee as to type, location and illumination. No exterior lighting may be directed toward another Lot or illuminate beyond the boundaries of the Lot on which the lighting fixture is located. High intensity area lighting such as mercury vapor or high-pressure sodium is not permitted. Landscape lighting may not exceed 1,000 watts, in the aggregate, per Lot.

The installation of a security or surveillance camera on the exterior of a Townhouse or other Improvement on a Lot requires the prior written approval of the Architectural Review Committee. The viewing area of a security or surveillance camera must be limited to the Lot on which the security or surveillance camera is located; a viewing area that includes any portion of another Lot is prohibited.

G. MAILBOXES.

Cluster mailboxes will be used in the Community; therefore, an individual mailbox on a Lot is not permitted.

H. WINDOW TREATMENTS AND DOORS.

Reflective glass is not permitted on the exterior of a Townhouse or other Improvement on a Lot. No foil or other reflective material, including, without limitation, solar screen, tinting or similar type of sunscreen, is permitted on or in any window or door. The installation or placement of paper, newspaper, sheets, flags or any other material in a window that is not a standard window covering is prohibited. Window and door awnings are prohibited. Burglar bars or doors are not permitted on the exterior of windows or doors. Screen doors may not be used on the front of a Townhouse. No aluminum or metal doors with glass fronts (e.g., storm doors) are allowed on the front of a Townhouse.

I. LANDSCAPING.

The yard area of each Lot, including trees, landscape beds, and shrubs in landscape beds, will be maintained by the Association. Maintenance of the yard area of a Lot by the Association may include mowing, trimming, fertilizing, mulching, limited insect and disease control of grass and landscaping, and any other maintenance that the Board of Directors of the Association, in its sole discretion, may determine to be necessary and appropriate. Provided that, it is the responsibility of the Owner of each Lot to regularly water the yard area and landscaping to promote growth and a vibrant appearance of the grass and landscaping. The cost of maintaining the yard areas of the Lots will be borne by the Owners through the Annual Maintenance Charge.

J. SEASONAL DECORATIONS.

Seasonal or holiday decorations may be displayed on a Lot or Townhouse or other Improvement on a Lot only for a reasonable period of time before the holiday to which the decorations relate and thereafter only as provided in this Section. Seasonal or holiday decorations must be removed within ten (10) days after the date of the holiday to which the decorations relate. In the event of a dispute relating to the period of time before a holiday during which decorations may be displayed, the reasonable, good faith decision of the Board of Directors concerning a reasonable period of time before a holiday will be conclusive and binding on all parties.

K. SWIMMING POOLS AND OTHER AMENITY STRUCTURES.

No swimming pool (in-ground or above-ground), hot tub, reflecting pond, sauna, whirlpool, lap pool, fountain or other water amenity is permitted in the front or rear yard of a Lot.

L. DRIVEWAYS AND SIDEWALKS.

All driveways and sidewalks to be constructed on a Lot require the prior written approval of the Architectural Review Committee. All driveways and sidewalks on a Lot which are visible from a street or Public Alley in the Community must be constructed of concrete and paved with concrete. Asphalt paving or white portland cement is prohibited. All driveways and sidewalks which are visible from a street or Public Alley in the Community must be paved;

chert, gravel and loose stone driveways and sidewalks are prohibited. No driveway or sidewalk may be painted or stained without the prior written approval of the Architectural Review Committee.

The driveway and the paved area of a patio or porch on a Lot must be properly maintained and repaired by the Owner of the Lot, including, without limitation, the removal of grass and/or weeds from expansion joints and the removal of oil stains. The maintenance and repair of all other flatwork on a Lot, including sidewalks, is the responsibility of the Association. The Board of Directors has the authority to determine whether a driveway or the paved area of a patio or porch on a Lot is being properly maintained by the Owner of the Lot in accordance with the standards of the Community and its reasonable, good faith determination will be conclusive and binding on all parties.

M. BASKETBALL GOALS.

All types of basketball goals, including, without limitation, portable basketball goals, are prohibited.

SECTION 2.4. SIZE AND LOCATION OF TOWNHOUSES.

A. MINIMUM ALLOWABLE AREA OF INTERIOR LIVING SPACE.

The minimum allowable area of interior living space in a Townhouse on a Lot is one thousand five hundred (1,500) square feet. For purposes of this Declaration, the term "interior living space" excludes steps, porches and exterior balconies.

B. HEIGHT.

The maximum height of a Townhouse on a Lot will be established by the initial construction of the Townhouse. The Townhouse on a Lot may not be modified to extend the height of the Townhouse above the height established upon initial construction. Further, if a Townhouse is damaged or destroyed as a result of a casualty event or otherwise requires replacement, the height of the reconstructed or repaired Townhouse may not exceed the height of the Townhouse initially constructed on the Lot. Height will be measured from finished grade to the ridge line of the roof.

C. LOCATION OF IMPROVEMENTS - SETBACKS.

Front and rear setbacks for Townhouses or other Improvements to be constructed on the Lots are governed by the applicable Plat or, if not shown on the Plat by applicable utility easements and building code.

SECTION 2.5. FENCES.

A. FENCES ON LOTS.

At the time of initial construction of a Townhouse on a Lot, a fence enclosing the rear yard area will be constructed. The fence material will be a combination of natural wood and

wrought iron. It is the responsibility of the Owner of the Lot to maintain and repair the fence on the Owner's Lot and each gate within the fence. The fence may not be removed from the Lot. A gate may not be removed from the fence. If the fence or a gate within the fence requires replacement, the replacement fence or gate, as applicable, requires the prior written approval of the Architectural Review Committee but a replacement fence and a gate within the fence must be consistent with the design of the fences and gates originally constructed on all Lots to preserve a uniform appearance.

The wood portion of the fence and gate enclosing the rear yard area of a Lot will be stained at the time of original construction. It is the responsibility of the Owner of each Lot to maintain the fence on the Owner's Lot (and each gate within the fence) and to restain the wood portions of the fence and gate(s) as necessary to preserve as closely as possible the original appearance. The Architectural Review Committee may select a particular type and color of a stain to be used on all wood fences and gates to maintain a uniform appearance. If a particular type and color of a stain is selected by the Architectural Review Committee, that stain must be used when re-staining a fence or gate. If the Architectural Review Committee does not select a particular type and color of stain to be used on all wood fences and gates, a stain proposed to be used by an Owner on a wood fence or gate must be approved in writing by the Architectural Review Committee prior to application.

SECTION 2.6. RESERVATIONS AND EASEMENTS.

A. UTILITY EASEMENTS.

Declarant reserves the utility easements, roads and rights-of-way shown on the Plat for the construction, addition, maintenance and operation of all necessary utility systems including systems of electric light and power supply, telephone service, cable television service, gas supply, water supply and sewer service, including systems for utilization of services resulting from advances in science and technology. There is hereby created an easement upon, across, over and under all of the Community for ingress and egress for the purpose of installing, replacing, repairing and maintaining all utilities. By virtue of this easement, it is expressly permissible for the Utility Companies and other entities supplying services to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, under the land within the utility easements now or from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this paragraph, no utilities or appurtenances thereto may be installed or relocated on the Community until approved by Declarant or the Board.

B. ADDITIONAL EASEMENTS.

Declarant reserves the right to impose further restrictions and dedicate additional easements by instrument recorded in the Official Public Records of Brazos County, Texas or by express provisions in conveyances, with respect to Lots that have not been sold by Declarant.

C. CHANGES TO EASEMENTS.

Declarant reserves the right to make changes in and additions to all easements for the purpose of aiding in the most efficient and economic installation of utility systems.

D. MINERAL RIGHTS.

It is expressly agreed and understood that the title conveyed by Declarant to any Lot or other parcel of land in the Community by contract, deed or other conveyance will not in any event be held or construed to include the title to any oil, gas, coal, lignite, uranium, iron ore, or any other minerals, water (surface or underground), gas, sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any utility or appurtenances constructed by or under authority of Declarant or its agents or Utility Companies through, along or upon said easements or any part thereof to serve said Lot or other parcel of land or any other portions of the Community. Declarant hereby expressly reserves the right to maintain, repair, sell or lease such lines, utilities, drainage facilities and appurtenances to any public service corporation or other governmental agency or to any other party. Notwithstanding the fact that the title conveyed by Declarant to a Lot in the Community by contract, deed, or other conveyances will not be held or construed to include the title to oil, gas, coal, lignite, uranium, iron ore or any other minerals, Declarant will have no surface access to the Community for mineral purposes.

E. DRAINAGE.

No Owner of a Lot is permitted to construct Improvements on the Owner's Lot or to grade the Lot or cause a condition on the Lot that alters the manner in which rain water falling onto the Lot drains from the manner in which rain water drains as of substantial completion of construction of the Townhouse on that Lot. It is the intent of this provision to preserve drainage as provided in the development of the Community. Declarant may, but is not required to, install drainage inlets or underground drains within the utility easement on one or more Lots. If so, no Owner may in any manner obstruct or interfere with such drainage system. After the expiration of the Development Period, the Architectural Review Committee has the authority to determine whether a drain or drainage system is required in any area of the Community. No drain or drainage system may be installed on or in a Lot unless approved in writing by Declarant during the Development Period and, thereafter, approved in writing by the Architectural Review Committee.

F. ELECTRIC DISTRIBUTION SYSTEM.

An electric distribution system will be installed in the Community, which service area embraces all of the Lots which are platted in the Community. This electrical distribution system will consist of underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as may be necessary to make underground service available. The Owner of each Lot containing a single dwelling unit must, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the Townhouse or other Improvement on the Owner's Lot to the electric company's primary service line. The electric company furnishing service will make the necessary connections at said point of attachment. Declarant has or will have either by designation on the Plat of the Community or by separate instrument granted necessary

easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted or will grant to the various Owners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various Owners to permit installation, repair and maintenance of each Owner's owned, and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit must, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as service is maintained, the electric service to each dwelling unit therein shall be uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has, at Declarant's expense, installed the electric distribution system (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Community is being developed for Townhouse units, consisting solely of Townhouses, all of which are designed to be permanently located where originally constructed which are built for sale or rent.

The provisions of the two preceding paragraphs also apply to any future residential development in the Community.

G. EASEMENT FOR LANDSCAPING.

Declarant reserves for itself and the Association and their respective agents, employees and contractors, an easement upon and across all Lots in the Community for the purpose of performing landscaping services as provided in Section 2.3.I. of this Declaration.

H. COMMON AREAS.

Owners of Lots are advised that there exist Common Areas within the Community which may be restricted to landscape, open space and recreational purposes. Owners of Lots within the Property hereby agree to hold harmless Declarant, the Association, and their respective agents, successors and assigns and release them from any liability for the placement of, construction, design, operation, and maintenance of the Common Areas, and agree to indemnify the parties released for any incidental noise, lighting, odors, parking, and/or traffic which may occur in the normal operation of the Common Areas.

Owners whose Lots are adjacent to or abut a Common Area must take care and may not permit any drainage pipes or conduits, grass clippings, dead plants or grass, trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate or penetrate the Common Areas. Any Owner who permits or causes such infiltration and penetration agrees to indemnify and hold harmless the Association for all costs of clean up, repair and remediation necessary to restore the Common Areas to their condition immediately prior to said infiltration and penetration. Each Owner hereby acknowledges that the Association, its directors, officers, managers, agents, or employees, Declarant or any representative of Declarant have made no representations or warranties, nor has such Owner or any tenant, guest or invitee of such Owner relied upon any representations or warranties, expressed or implied, relative to the Common Areas.

ARTICLE III.
ARCHITECTURAL APPROVAL

SECTION 3.1. ARCHITECTURAL REVIEW COMMITTEE.

The Architectural Review Committee will consist of three (3) members, all of whom will be appointed by Declarant, except as otherwise set forth herein. Declarant has the continuing right to appoint all three (3) members until the earlier of (a) the date that the Development Period terminates, or (b) the date Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board will have the right to appoint all members. During the Development Period, members of the Architectural Review Committee are not required to be Members of the Association. Upon termination of the Development Period, all members of the Architectural Review Committee are required to be Members of the Association. Members of the Architectural Review Committee appointed by Declarant may be removed at any time and will serve until resignation or removal by Declarant. Members of the Architectural Review Committee appointed by the Board may be removed at any time by the Board, and will serve for such term as may be designated by the Board or until resignation or removal by the Board. Notwithstanding any provision in this Declaration to the contrary, if, upon the termination of the Development Period, there are Lots on which a Townhouse has not been constructed, the authority to approve or disapprove plans for a Townhouse to be constructed on any such Lot will remain vested in Declarant.

SECTION 3.2. APPROVAL OF IMPROVEMENTS REQUIRED.

In order to preserve the architectural and aesthetic appearance of the Community, to establish and preserve a harmonious design for the Community, and to protect and promote the value of the Lots and the Townhouses and Improvements thereon, no Improvement of any nature may be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on a Lot by an Owner, other than Declarant, which affect the exterior appearance of any Lot or the Townhouse or other Improvement on a Lot unless plans therefor have been submitted to and approved in writing by the Architectural Review Committee.

The Architectural Review Committee will, in its sole discretion, determine whether the plans and other data submitted by an Owner for approval are acceptable. The Architectural Review Committee may establish and change from time to time, if deemed appropriate, a non-refundable fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and to monitor and otherwise enforce the terms hereof (the "Submission Fee").

The Architectural Review Committee has the right to disapprove any plans on any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations; failure to comply with any of the provisions of this Declaration; failure to provide requested information; objection to exterior design, appearance or materials; objection on the ground of incompatibility of any such proposed Improvement with the general plan of

development for the Community; objection to the location of any proposed Improvements on any such Lot or Townhouse; objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement; or any other matter which, in the sole judgment of the Architectural Review Committee, would render the proposed Improvement inharmonious with the general plan of development for the Community. The Architectural Review Committee has the right to approve any submitted plans with conditions or stipulations by which the Owner of such Lot will be obligated to comply and must be incorporated into the plans for the Improvement. Approval of plans by the Architectural Review Committee for an Improvement to be constructed on a Lot will not be deemed an approval or otherwise obligate the Architectural Review Committee to approve similar plans for an Improvement to be constructed on another Lot.

Any revision, modification or change in plans previously approved by the Architectural Review Committee must be approved by the Architectural Review Committee in the same manner specified above prior to commencing construction or proceeding with construction on the basis of the revision, modification or change.

SECTION 3.3. ADDRESS OF COMMITTEE.

The address of the Architectural Review Committee will be the address of the Association as set forth in its recorded Management Certificate.

SECTION 3.4. FAILURE OF COMMITTEE TO ACT ON PLANS.

A request for approval of a proposed Improvement on a Lot will be deemed disapproved by the Architectural Review Committee unless approval is transmitted to the Owner by the Architectural Review Committee within thirty (30) days of the date of actual receipt by the Architectural Review Committee of the request. Accordingly, the failure of the Architectural Review Committee to act on plans or to forward a written response to the applicant within thirty (30) days of the date of receipt of the plans constitutes disapproval of the plans. In no event will inaction by the Architectural Review Committee constitute deemed approval. In addition, a written request for additional information or materials will also be deemed to be a disapproval of a request, whether or not so stated in the written request.

SECTION 3.5. PROSECUTION OF WORK AFTER APPROVAL.

After approval of a proposed Improvement on a Lot, the proposed Improvement must be prosecuted diligently and continuously and must be completed within the time frame approved by the Architectural Review Committee and in strict conformity with the description of the proposed Improvement in the plans submitted to the Architectural Review Committee.

SECTION 3.6. INSPECTION OF WORK.

The Architectural Review Committee or its duly authorized representative has the right, but not the obligation, to inspect any Improvement on a Lot before or after completion, provided that the right of inspection will terminate sixty (60) days after completion.

SECTION 3.7. POWER TO GRANT VARIANCES.

The Architectural Review Committee may authorize variances from compliance with any of the provisions of Article II of this Declaration (except for the provisions relating to single family residential construction and use), when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and will become effective when signed by at least a majority of the members of the Architectural Review Committee. If any such variance is granted, no violation of the provisions of this Declaration will be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance will not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor will the granting of any variance affect the jurisdiction of the Architectural Review Committee other than with respect to the subject matter of the variance or in any way affect the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned.

SECTION 3.8. COMPENSATION OF ARCHITECTURAL REVIEW COMMITTEE MEMBERS.

The members of the Architectural Review Committee will not be compensated for their services, but are entitled to reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve.

SECTION 3.9. ESTOPPEL CERTIFICATES.

The Board of Directors, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Review Committee, may furnish a certificate with respect to the approval or disapproval of an Improvement on a Lot or with respect to whether an Improvement on a Lot was made in compliance with the provisions of this Declaration. Any person, without actual notice of any falsity or inaccuracy of such a certificate, is entitled to rely on such certificate with respect to all matters set forth therein.

SECTION 3.10. NONLIABILITY FOR ARCHITECTURAL REVIEW COMMITTEE ACTION.

None of the members of the Architectural Review Committee, the Association, any member of the Board of Directors, or Declarant is liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Review Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Architectural Review Committee does not inspect, guarantee or warrant the workmanship of the Improvement, including its design, construction, safety, whether structural or otherwise, conformance with building codes, or other governmental laws or regulations or whether the Improvement is suitable or fit for its intended purpose.

ARTICLE IV.
MANAGEMENT AND OPERATION OF COMMUNITY

SECTION 4.1. MANAGEMENT BY ASSOCIATION.

The affairs of the Community will be administered by the Association. The Association has the right, power and obligation to provide for the management, administration, and operation of the Community as herein provided for and as provided for in the Certificate of Formation, Bylaws, and Rules and Regulations. The business and affairs of the Association will be managed by its Board of Directors. The Declarant will determine the number of Directors and appoint, dismiss and reappoint all of the members of the Board during the Development Period, other than Board members elected by Owners other than Declarant as provided in the Bylaws of the Association. The Board may engage the Declarant or any entity, whether or not affiliated with Declarant, to perform the day to day functions of the Association and to provide for the management, administration and operation of the Community. The Association, acting through the Board, is entitled to enter into such contracts and agreements concerning the Community as the Board deems reasonably necessary or appropriate, in the Board's sole discretion, to manage and operate the Community in accordance with this Declaration, including without limitation, the right to enter into agreements relating to maintenance, trash pick-up, repair, administration, patrol services, traffic, or other matters affecting the Community.

SECTION 4.2. MEMBERSHIP IN ASSOCIATION.

The Association has mandatory membership. Each Owner of a Lot, whether one or more persons or entities, will, upon and by virtue of becoming such Owner, automatically become and will remain a Member of the Association until his Ownership ceases for any reason, at which time his membership in the Association will automatically cease. Membership in the Association is appurtenant to Ownership of a Lot, will automatically follow the Ownership of each Lot, and may not be separated from Ownership of a Lot.

SECTION 4.3. VOTING OF MEMBERS.

Each Member other than Declarant is a Class A Member entitled to one (1) vote per Lot owned on each matter submitted to a vote of the Members. Declarant is a Class B Member having ten (10) votes for each Lot owned. No Member is entitled to vote at any meeting of the Association until such Owner has presented evidence of Ownership of a Lot in the Community to the Secretary of the Association. In the event that Ownership interests in a Lot are owned by more than one Class A Member of the Association, such Class A Members may exercise their right to vote in such manner as they may among themselves determine, but in no event may more than one (1) vote be cast for each Lot. Such Class A Members may appoint one of them as the Class A Member who is entitled to exercise the vote of that Lot at any meeting of the Association. Such designation must be made in writing to the Board of Directors and will be revocable at any time by actual written notice to the Board. The Board is entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Lot is owned by more than one Class A Member of the Association, and no single Class A Member is designated to vote on behalf of the Class A Members having an Ownership interest in such Lot, then the Class A Member exercising the vote for the Lot will be deemed to

be designated to vote on behalf of the Class A Members having an Ownership interest in the Lot. All Members of the Association may attend meetings of the Association and all Members may exercise their vote at such meetings either in person or proxy. Occupants of Lots who are not Members of the Association may attend meetings of the Association and serve on committees (except the Architectural Review Committee, after Class B membership in the Association ceases to exist). Fractional votes and split votes are not permitted.

Class B membership in the Association will cease and be converted to Class A membership upon the termination of the Development Period, or on any earlier date selected by Declarant and evidenced by a written notice recorded in the Official Public Records of Brazos County, Texas.

SECTION 4.4. MEETINGS OF THE MEMBERS.

Annual and special meetings of the Members of the Association may be held at such place and time and on such dates as specified or provided in the Bylaws.

SECTION 4.5. PROFESSIONAL MANAGEMENT.

The Board has the authority to retain, hire, employ or contract with such professional management companies or personnel as the Board deems appropriate to perform the day to day functions of the Association and to provide for the administration and operation of the Community as provided for herein and as provided for in the Bylaws.

SECTION 4.6. BOARD ACTIONS IN GOOD FAITH.

Any action, inaction or omission by the Board made or taken in good faith will not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party.

SECTION 4.7. STANDARD OF CONDUCT.

The Board of Directors, the officers of the Association, and the Association have the duty to represent the interests of the Owners in a fair and just manner. Any act or thing done by any Director, officer or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the Declaration, Certificate of Formation, Bylaws and the laws of the State of Texas, will be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing will not be a breach of duty on the part of the Director, officer or committee member if taken or done within the exercise of their discretion and judgment. The Business Judgment Rule means that a court may not substitute its judgment for that of the Director, officer or committee member. A court may not re-examine the decisions made by a Director, officer or committee member by determining the reasonableness of the decision as long as the decision is made in good faith and in what the Director, officer, or committee member believed to be in the best interest of the Association.

SECTION 4.8. IMPLIED RIGHTS; BOARD AUTHORITY.

The Association may exercise any right or privilege given to it expressly by the provisions of this Declaration or its Certificate of Formation or Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board of Directors without a vote of the membership except where any provision in this Declaration, the Certificate of Formation, the Bylaws or applicable law specifically requires a vote of the membership.

The Board may institute, defend, settle or intervene on behalf of the Association in litigation, administrative proceedings, binding or non-binding arbitration or mediation in matters pertaining to (a) Common Areas or other areas in which the Association has or assumes responsibility pursuant to the provisions of this Declaration, (b) enforcement of this Declaration or any Rules and Regulations or (c) any other civil claim or action. However, no provision in this Declaration or the Certificate of Formation or Bylaws will be construed to create any independent legal duty to institute litigation on behalf of or in the name of the Association.

ARTICLE V.
MAINTENANCE EXPENSE CHARGE AND MAINTENANCE FUND

SECTION 5.1. MAINTENANCE FUND.

All Annual Maintenance Charges collected by the Association and all interest, penalties, assessments and other sums and revenues collected by the Association (excluding reserves maintained in a separate reserve account) constitute the Maintenance Fund. The Maintenance Fund will be held, managed, invested and expended by the Board, in its sole discretion, for the benefit of the Community and the Owners of Lots therein. The Board may, by way of illustration and not by way of limitation, expend the Maintenance Fund for the administration, management, and operation of the Community; for the maintenance, repair and Improvement of the Common Area; for the maintenance of any easements granted to the Association; for the enforcement of the provisions of this Declaration by action at law or in equity, or otherwise, and the payment of court costs as well as reasonable and necessary legal fees; and for all other purposes that are, in the discretion of the Board, desirable in order to maintain the character and value of the Community and the Lots therein. The Board and its individual members are not liable to any person as a result of actions taken by the Board with respect to the Maintenance Fund, except for willful neglect or intentional wrongdoings.

SECTION 5.2. COVENANTS FOR ANNUAL MAINTENANCE CHARGES AND ASSESSMENTS.

Subject to Section 5.8., below, each and every Lot in the Community is hereby severally subjected to and impressed with an Annual Maintenance Charge in an amount to be determined annually by the Board, which Annual Maintenance Charge will run with the land. Each Owner of a Lot, by accepting a deed to the Lot, whether or not it is so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the Annual Maintenance Charges and assessments levied against his Lot and/or assessed against him by virtue of his Ownership thereof, as the same becomes due and payable, without demand. The Annual Maintenance Charges and assessments herein provided for are a charge and a

continuing lien upon each Lot, together with all Improvements thereon, as hereinafter more particularly stated. Each Annual Maintenance Charge or assessment, together with late charges, interest, costs, and reasonable attorney's fees, are also the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such Annual Maintenance Charge or assessment accrued, but no Owner is personally liable for the payment of any Annual Maintenance Charge or assessment made or becoming due and payable after his Ownership ceases. No Owner is exempt or excused from paying any such Annual Maintenance Charge or assessment by waiver of the use or enjoyment of the Common Areas, or any part thereof, or by abandonment of his Lot or his interest therein.

SECTION 5.3. AMOUNT OF THE ANNUAL MAINTENANCE CHARGE.

Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum Annual Maintenance Charge is $2,280.00 per Lot. As provided in Section 5.5 of this Declaration, the Annual Maintenance Charge is due and payable in equal monthly installments. From and after January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the Annual Maintenance Charge may be adjusted (increased or decreased) effective January 1 of each year as deemed necessary by the Board of Directors to pay the anticipated operating costs of the Association, including contributions, if any, to a reserve fund. The Annual Maintenance Charge for a particular year will be based upon the budget for that year adopted by the Board of Directors. The annual budget upon which the Annual Maintenance Charge is based will include the premiums for the insurance maintained by the Association as provided in Section 7.1. of this Declaration. Except as provided in Section 5.9, the Annual Maintenance Charge levied against each Lot must be uniform.

SECTION 5.4. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL MAINTENANCE CHARGE

The initial maximum Annual Maintenance Charge provided for herein will be established as to all Lots on the date this Declaration is recorded in the Official Public Records of Brazos County, Texas. However, the Annual Maintenance Charge will commence as to each Lot on the date of the conveyance of the Lot by the Declarant and will be prorated according to the number of days remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association must fix the amount of the Annual Maintenance Charge to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the Annual Maintenance Charge for Lots must be sent to every Lot Owner. Provided that, the failure to fix the amount of the Annual Maintenance Charge or to send written notice thereof to all Owners will not affect the authority of the Association to levy Annual Maintenance Charges or to increase Annual Maintenance Charges as provided in this Declaration.

SECTION 5.5. PAYMENT OF THE ANNUAL MAINTENANCE CHARGE.

The Annual Maintenance Charge levied against each Lot for a particular calendar year will be due and payable in equal monthly installments beginning on the first (1st) day of January of the applicable assessment year and the first (1st) day of each month thereafter. A monthly installment of the Annual Maintenance Charge will become delinquent if payment is not

received by the Association by the tenth (10th) day of the month in which the payment became due.

SECTION 5.6. SPECIAL ASSESSMENTS.

If the Board at any time, or from time to time, determines that the Annual Maintenance Charges assessed for any period are insufficient to provide for the continued operation of the Community or any other purposes contemplated by the provisions of this Declaration, then the Board has the authority to levy a Special Assessment ("Special Assessment") as it deems necessary to provide for such continued maintenance and operation. No Special Assessment will be effective until it is approved (a) in writing by at least a majority of the Members or (b) by the vote of not less than two-thirds (2/3) of the Members present and voting, in person or by proxy, at meeting of the Members called for that purpose at which a quorum is present. A Special Assessment is payable in the manner determined by the Board and the payment thereof may be enforced in the manner herein specified for the payment of the Annual Maintenance Charges. The amount of any Special Assessment levied against Lots must be uniform.

SECTION 5.7. DETENTION ASSESSMENTS.

Within the residential subdivision adjacent to the Community are detention areas which benefit the Community in terms of drainage and providing open space. The cost of maintaining and repairing the detention areas will be shared by the Association and the property owners' association having jurisdiction over the adjacent residential subdivision. For the purpose of providing funds to the Association for its share of the cost to maintain and repair the detention areas, each Owner of a Lot is obligated to pay to the Association an annual "Detention Assessment". The amount of the annual Detention Assessment is $250.00 per Lot.

All Detention Assessments will be deposited into a separate account maintained by the Association and designated for use only with respect to the maintenance and repair of the detention areas. Payment of Detention Assessments are secured by the continuing lien established in Section 5.2 of this Declaration. A Detention Assessment is also the personal obligation of the Owner of the Lot at the time the Detention Assessment for that Lot becomes due. A Detention Assessment is subject to the same provisions relating to non-payment that are applicable to Annual Maintenance Charges and Special Assessments pursuant to Article V. of this Declaration.

SECTION 5.8. ENFORCEMENT OF ANNUAL MAINTENANCE CHARGE/ SUBORDINATION OF LIEN.

A monthly payment of the Annual Maintenance Charge that becomes delinquent (as provided in Section 5.5) will bear interest at the rate of twelve percent (12%) per annum or the maximum, non-usurious rate, whichever is less, from the date originally due until paid. Further, the Board of Directors of the Association has the authority to impose a monthly late charge on any delinquent portion of an Annual Maintenance Charge, and any delinquent Special Assessment, Detention Assessment or Reserve Assessment. The monthly late charge, if imposed, is in addition to interest. If three (3) monthly payments of the Annual Maintenance Charge due on a Lot become delinquent, the Board of Directors has the authority to accelerate all payments for the remainder of the year and demand payment of the full amount of the

Annual Maintenance Charge (less any portion of the Annual Maintenance Charge previously paid). To secure the payment of the Annual Maintenance Charge, Special Assessments, Detention Assessments and Reserve Assessments levied hereunder and any other sums due hereunder (including, without limitation, interest, late fees, costs, attorney's fees or delinquency charges), there is hereby created and fixed a separate and valid and subsisting lien upon and against each Lot and all Improvements thereon for the benefit of the Association, and superior title to each Lot is hereby reserved in and to the Association. The lien described in this Section 5.8 and the superior title herein reserved is subordinate to any Mortgage for the purchase of a Lot and any renewal, extension, rearrangement or refinancing thereof. Notice of the lien referred to in the preceding paragraph may, but is not required to, be given by recording in the Official Public Records of Brazos County, Texas an affidavit, duly executed and acknowledged by an authorized representative of the Association, setting forth the amount owed, the name of the Owner or Owners of the affected Lot according to the records of the Association, and the legal description of such Lot. Each Owner, by acceptance of a deed to his Lot, hereby expressly recognizes the existence of such lien as being prior to his Ownership of such Lot and hereby vests in the Association the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid Annual Maintenance Charge, Special Assessment, Detention Assessment, Reserve Assessment and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure; in addition to and in connection therewith, by acceptance of the deed to his Lot, each Owner expressly grants, bargains, sells and conveys to the President of the Association from time to time serving, as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid Annual Maintenance Charge, Special Assessments, Detention Assessments, Reserve Assessments and other sums due hereunder remaining unpaid hereunder by such Owner from time to time and grants to such trustee a power of sale. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and filed in the Official Public Records of Brazos County, Texas. At any foreclosure, the Association is entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot are required to pay a reasonable rent for the use of such Lot and such occupancy will constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale is entitled to the appointment of a receiver to collect such rents and, further, is entitled to sue for recovery of possession of such Lot by forcible detainer without further notice, except as may otherwise be provided by law. The collection of such Annual Maintenance Charge, Special Assessment, Detention Assessment, Reserve Assessment, and other sums due hereunder may also be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, late charges, costs and attorney's fees will be chargeable to and be a personal obligation of the defaulting Owner.

SECTION 5.9. PAYMENT OF ASSESSMENTS BY DECLARANT.

Lots owned by Declarant are exempt from Annual Maintenance Charges, Special Assessments and Detention Assessments levied by the Association during the Development Period. Provided that, during the Development Period, Declarant will pay any deficiency in the

operating budget, less sums deposited in any reserve account established by the Association or otherwise set aside for reserves.

SECTION 5.10. RESERVE ASSESSMENT.

A "**Reserve Assessment**" is a sum payable to the Association by the purchaser of a Lot upon the transfer of title to the Lot as provided herein. A Reserve Assessment is due and payable to the Association upon the transfer of title to a Lot by Declarant and upon each subsequent transfer of title to a Lot. The amount of the Reserve Assessment will be one-half (½) the amount of the Annual Maintenance Charge in effect as of the date of the transfer of title to the Lot. The Reserve Assessment is due and payable on the date the deed conveying the Lot to the purchaser is recorded or, if a contract for deed or similar instrument, the date the contract for deed is executed. Payment of the Reserve Assessment is in default if the Reserve Assessment is not paid on or before the due date for such payment. A Reserve Assessment in default will bear interest at the rate of twelve percent (12%) per annum or the maximum, non-usurious rate, whichever is less, from the due date until paid and late charges at the same rate applicable to the Annual Maintenance Charge. No Reserve Assessment paid by an Owner will be refunded to the Owner by the Association. The Association may enforce payment of the Reserve Assessment in the same manner which the Association may enforce payment of Annual Maintenance Charges and Special Assessments pursuant to this Article V.

During the Development Period, all funds collected by the Association by virtue of the Reserve Assessment may be deposited into the Maintenance Fund and used by the Association for any purpose for which funds in the Maintenance Fund may be expended. Upon the termination of the Development Period, or on an earlier date if so elected by Declarant in its sole discretion, all Reserve Assessments thereafter collected by the Association, as well as any Reserve Assessments previously collected by the Association but not deposited into the Maintenance Fund, must be deposited into a reserve account established and maintained by the Association for capital improvements and/or the repair or refurbishment of the Common Areas.

SECTION 5.11. NOTICE OF SUMS OWING.

Upon the written request of an Owner, the Association may provide to the Owner a written statement setting out the then current total of all Annual Maintenance Charges, Special Assessments, Detention Assessments, Reserve Assessments, and other sums, if any, owing by the Owner with respect to his Lot. In addition to the Owner, the written statement from the Association so advising the Owner may also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, as identified by the Owner to the Association in the written request for such information. The Association is entitled to charge the Owner a reasonable fee for such statement.

SECTION 5.12. FORECLOSURE OF MORTGAGE.

In the event of a foreclosure of a Mortgage on a Lot that is superior to the lien created by this Declaration for the benefit of the Association, the purchaser at the foreclosure sale is not responsible for Annual Maintenance Charges, Special Assessments, Reserve Assessments or other sums, if any, which accrued and were payable to the Association by the prior Owner of the Lot, but the purchaser and its successors are responsible for Annual Maintenance Charges,

Special Assessments, Detention Assessments, Reserve Assessments and other sums, if any, becoming due and owing to the Association with respect to the Lot after the date of foreclosure.

SECTION 5.13. ADMINISTRATIVE FEES AND RESALE CERTIFICATES.

The Board of Directors of the Association may establish and change from time to time, if deemed appropriate, a reasonable fee based upon the expense associated with providing information in connection with the sale of a Lot in the Community and changing the Ownership records of the Association ("**Administrative Fee**"). A Administrative Fee must be paid to the Association or the managing agent of the Association, if agreed upon by the Association, upon each transfer of title to a Lot. The Administrative Fee must be paid by the purchaser of the Lot, unless otherwise agreed by the seller and purchaser of the Lot. The Administrative Fee must be a fixed sum applicable to all title transfers, not a percentage of the sale price of a Lot. The Administrative Fee is not to be set at a rate for the purpose of generating revenue; rather, it is to be set at a rate to reasonably compensate the Association or its managing agent for the cost associated with changing the Association's Ownership records.

The Association also has the authority to establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing a Resale Certificate in connection with the sale of a Lot. The fee for a Resale Certificate must be paid to the Association or the managing agent of the Association, if agreed to by the Association. The fee for a Resale Certificate is in addition to, not in lieu of, the Administrative Fee.

ARTICLE VI.
MAINTENANCE OBLIGATIONS

SECTION 6.1. ASSOCIATION MAINTENANCE SERVICES.

The Association is required to maintain, repair and replace the roofs, the foundations, and the exterior building surfaces of the Townhouses and the landscaping on the Lots to maintain a uniform appearance. The scope of such maintenance will be as set forth in this Section.

A. ROOFING AND ROOF SYSTEMS.

The Association must repair, maintain, and replace the roofs within the reasonable discretion of the Association, acting by and through its Board. The "roofs", as used herein, are deemed to constitute only the exterior surfaces of the roof constituting the roofing material, the underlay beneath the shingles, the decking materials, the flashing and any guttering attached to the roofing eaves. The Association does not have the responsibility to maintain, repair, or replace any trusses, beams or any portion of the structure supporting the roof. If any of such items which are the responsibility of the Owner require repair or replacement, and the Owner of the Townhouse fails or refuses to repair or replace same, the Association has the right, but not the obligation, to perform the necessary work and 110% of the cost of such repair and/or replacement, plus a reasonable administrative fee, will be billed against the Townhouse for which the work was performed. The amount billed will be due upon receipt and, if not paid within ten (10) days, the amount due will be assessed against the Townhouse and the Owner of the Townhouse, which assessment will be secured by the lien against the Townhouse

established in Article V of this Declaration. The Association, its Board, officers or agents, are not responsible or liable to any Owner or other occupant for any damage to the interior of the Townhouse or contents thereof (including the attic space) resulting from roof leaks or water penetration unless the damage results from the willful acts or gross negligence of the Association. In no event is the Association liable for repair or replacement of any consequential or incidental damage to the interior of the Townhouse which may result, whether foreseen or unforeseen, from any repair or replacement work performed by the Association or its employees, agents or contractors.

B. BALCONIES.

The Association must maintain the walls, floor and railing of the balcony area of each Townhouse. The Architectural Review Committee may adopt Rules and Regulations relating to the use of balconies which address, by way of example and not in limitation, permissible furniture, plants, equipment and other personal property on balconies to minimize potential problems relating to visibility, privacy and quiet enjoyment of other Owners. An Owner must submit to the Architectural Review Committee a written request for approval of any item to be placed on a balcony, unless the item is expressly allowed per the provisions of the Rules and Regulations. In all instances, the placement or installation of a hot tub or spa of any kind, sauna, flagpole, or barbecue grill or pit of any kind, is strictly prohibited. Other items may be prohibited as specified in the Rules and Regulations. No item may exceed thirty-six (36) inches in height. The Owner of a Townhouse is obligated to reimburse the Association for costs incurred by the Association to perform work or repair damage to a balcony caused by the negligence or intentional act of the Owner or the Owner's family members, tenants, invitees or guests.

No balcony may be modified or altered without the prior written approval of the Architectural Review Committee.

C. FOUNDATIONS.

The Association must maintain and repair the foundations of all Townhouses as reasonably determined to be necessary and appropriate by the Board of Directors of the Association. The Association, its agents, employees and contractors, will have reasonable access to the interiors of the Townhouses as necessary to investigate and repair foundation problems. The Association, its Board, officers or agents, are not responsible or liable to any Owner or other occupant for any damage to the interior of a Townhouse or contents thereof resulting from a foundation problem or the repair of a foundation unless the damage results from the willful acts or gross negligence of the Association. Items for which the Association has no responsibility or liability (absent willful acts or gross negligence) include, without limitation, interior cracks in walls, ceilings or floor coverings or the replacement of floor coverings which must be removed to effect necessary foundation repairs.

D. EXTERIOR BUILDING SURFACES.

The Association must repair, maintain and replace the exterior building surfaces as reasonably determined to be necessary and appropriate by the Board of Directors of the Association. Exterior building surfaces are deemed to be the building components which constitute the most outward portion of the building exterior, whether wood or Hardiplank (or

similar material), exterior siding, brick, stucco, and related exterior trim, including the painting (if applicable) of the foregoing materials. The Association does not have the responsibility to maintain, repair, or replace any portion of the structure of the Townhouse (including studs within the walls), or any insulation materials whatsoever. If any of such items which are the responsibility of the Owner require repair or replacement, and the Owner of the Townhouse fails or refuses to repair or replace same, the Association has the right, but not the obligation, to perform the necessary work and 110% of the cost of such repair and/or replacement, plus a reasonable administrative fee, will be billed against the Townhouse for which the work was performed. The amount billed will be due upon receipt and, if not paid within ten (10) days, the amount due will be assessed against the Townhouse and the Owner of the Townhouse, which assessment will be secured by the lien against the Townhouse established in Article V. of this Declaration. The Association, its Board, officers or agents, are not responsible or liable to any Owner or other occupant for any damage to the interior of the Townhouse or contents thereof resulting from any water leaks or penetration unless same has resulted from the willful acts or gross negligence of the Association. In no event is the Association liable for repair or replacement of any consequential or incidental damage to the interior of the Townhouse which may result, whether foreseen or unforeseen, from any repair or replacement work performed by the Association or its employees, agents or contractors.

E. EXTERIOR DOORS, GARAGE DOORS, WINDOWS AND FIXTURES.

The Association must paint the exteriors of the exterior doors and garage doors and exterior window trim in connection with the repainting of the exteriors of the Townhouses. Provided, however, that the Owners will always be responsible for replacing or repairing the exterior doors, garage doors, and windows and window frames (and all related hardware or fixtures relating thereto) at the Owner's sole cost and expense. If, during the performance of its maintenance or repair responsibilities, it becomes apparent to the Board of Directors of the Association that a door, window or garage door is in need of repair or replacement, the Owner will be so notified in writing and the Owner will be required to repair or replace same in a timely fashion so as to allow the Association the ability to complete its exterior maintenance responsibilities and painting. If the Owner fails or refuses to repair or replace same, the Association has the right, but not the obligation, to perform the necessary work and 110% of the cost of such repair and/or replacement, plus a reasonable administrative fee, will be billed against the Townhouse for which work is performed. The amount billed will be due upon receipt and if not paid within ten (10) days, the amount due will be assessed against the Townhouse and the Owner of the Townhouse, which assessment will be secured by a lien against such Townhouse established in Article V. of this Declaration.

F. LANDSCAPING.

As provided in Section 2.3.I. of this Declaration, the Association will maintain all landscaping (including trees) and grass on Lots.

G. IRRIGATION SYSTEMS.

Notwithstanding any provision in this Declaration to the contrary, the Association will maintain and control all components of irrigation systems for watering the landscaping and grass on the Lots, including but not limited to, the timers, to the exclusion of the Owners. Such

maintenance may include the repair and/or replacement of any and all components of such irrigation systems, as determined necessary in the sole discretion of the Board. The cost associated with such maintenance, repair and replacement of irrigation systems and related components will be an expense payable through the Annual Maintenance Charge. Provided, however, in the event that an Owner or an occupant of a Lot for whom the Owner of the Townhouse is responsible causes damage to the irrigation system and related components servicing the Owner or occupant of a Lot, any expense incurred by the Association to perform the necessary repair or replacement work will be the responsibility of the Owner of such Lot. The cost of such repair and/or replacement will be billed to the Owner and charged against the Lot for which work is performed. The amount due will be due upon receipt and if not paid within ten (10) days, the amount due will be assessed against the Lot and the Owner of the Lot, which assessment will be secured by a lien against the Lot established in Article V. of this Declaration. Notwithstanding anything contained herein to the contrary, each Owner has the obligation to pay for all water usage costs which are separately metered for the Owner's Lot.

H. EASEMENT GRANTED TO ASSOCIATION.

The Association and its designees are hereby granted a perpetual non-exclusive easement to the extent necessary for the right to enter upon a Lot for the performance of maintenance, repair, or replacement, or other work authorized in this Section. Said easement is over, across, under, and upon all of the Lots. If it becomes necessary for the Association or its designees to enter into a Townhouse to perform the services described herein, the Board, except in the case of an emergency and to the extent practicable, must give the affected Owner of the Townhouse five (5) days written notice setting forth the action intended to be taken by the Association. Access to a Townhouse by the Association may not be unreasonably withheld by the affected Owner of the Townhouse. In the event of an emergency, the Association has a right of entry without prior notice to the Owner.

SECTION 6.2. MAINTENANCE OBLIGATIONS OF OWNERS OF LOTS.

All maintenance, repair and/or replacement related to the Townhouse and Lot, other than that provided by the Association in the preceding Section, is the sole responsibility of the Owner, as set forth in this Section.

A. STRUCTURAL AND BUILDING.

The Owner of each Townhouse must maintain in proper working order and on a continuing basis all structural and building items that are not specifically identified as an Association responsibility. Such structural items include framing, roof structure (except for decking), walkways, driveways, patios and the like.

B. TOWNHOUSE UTILITIES.

The Owner of each Townhouse must maintain in proper working order and on a continuing basis all Townhouse sanitary sewer lines and facilities, water pipelines, Townhouse water meters and related water lines (save and except the irrigation components addressed hereinabove) and facilities, electrical and gas lines, meters and facilities, telephone and any other telecommunication lines, devices or facilities, and all other facilities, utilities and services

which exclusively service each Townhouse, regardless of the location thereof. Utilities which provide service to more than one (1) Townhouse must be maintained, repaired and replaced by all of the Owners of the multiple Townhouses served, pro rata, or in such other proportions as determined by the Board upon written request when the circumstances clearly demonstrate that a different manner of allocation is required.

C. OTHER ITEMS.

The Owner of each Townhouse must maintain any other exterior item that is not specifically identified as a Association responsibility, such as the exterior light fixtures and light bulbs, air conditioning of a Townhouse, as well as any lines, pipes, ducts, and wall penetrations. The Owner is also solely responsible for the interior of the Townhouse.

D. PARTY WALLS.

(i) General Rules. Except as otherwise provided in this paragraph (d), the responsibility for the maintenance and repair of a Party Wall is the joint responsibility of the Owners of the adjacent Townhouses. The cost to maintain and repair a Party Wall must be shared equally by the Owners of the adjacent Townhouses. General rules of law regarding Party Walls and liability for property damage due to negligence and willful acts or omissions apply.

(ii) Damage or Destruction. If a Party Wall is damaged or destroyed by fire or other casualty and such damage is covered by the property insurance policy maintained by the Association, the insurance proceeds must be used by the Association to repair or reconstruct the Party Wall. If the insurance proceeds do not cover the entire cost to repair or reconstruct the Party Wall, the cost not covered by insurance proceeds must be shared equally by the Owners of the adjacent Townhouses.

(iii) Individual Liability. An Owner of a Townhouse who, by his negligence or willful act, causes a Party Wall to be damaged or exposed to the elements must bear the entire cost of performing whatever work is necessary to repair the Party Wall and protect the Party Wall from the elements.

(iv) Right of Contribution. The right of an Owner of a Townhouse to contribution from the Owner of an adjacent Townhouse relating to the Party Wall separating the two (2) Townhouses is appurtenant to the land and pass to the Owner's successors in title.

Maintenance and repair work must be performed consistent with this Declaration and in conformity with the standards of the Community.

ARTICLE VII.
INSURANCE

SECTION 7.1. INSURANCE MAINTAINED BY THE ASSOCIATION.

The Association must at all times maintain property insurance on all of the Townhouses

and related Improvements, insuring against loss or damage by fire and loss or damage by all risks embraced by standard extended coverage policies in use in the State of Texas in an amount not less than the full insurable replacement cost of all of the Townhouses. The full insurable replacement cost of all of the Townhouses must be determined each year by the Board of Directors of the Association. If an appraisal is necessary to make the determination, the cost of the appraisal will be an expense borne by all of the Owners of the Lots through the Annual Maintenance Charge.

A. REQUIREMENTS.

Property insurance carried by the Association must provide that:

i. the insurer waives its right to subrogation under the policy against an Owner of a Townhouse;

ii. no action or omission of an Owner of a Townhouse will void the policy or be a condition to recovery under the policy;

iii. if, at the time of a loss under the policy, there is insurance in the name of an Owner of a Townhouse covering the same property covered by the policy, the Association's policy provides primary insurance; and

iv. the insurer issuing the policy may not cancel or refuse to renew the policy less than thirty (30) days after written notice of the proposed cancellation or non-renewal has been mailed to the Association.

B. CLAIMS.

A claim for any loss covered by the property insurance policy maintained by the Association must be submitted by and adjusted with the Association. The insurance proceeds for that loss will be payable to an insurance trustee designated by the Association for that purpose, if the designation of an insurance trustee is considered by the Board of Directors of the Association to be necessary or desirable, or otherwise to the Association and not to any Owner of a Townhouse or lienholder. The insurance trustee or the Association will hold insurance proceeds in trust for Owners of Townhouses and lienholders as their interests may appear. The proceeds paid under the policy must be disbursed first for the repair or restoration of the damaged Townhouse(s), and the Owners of Townhouses and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored.

C. COSTS IN EXCESS OF INSURANCE.

If the cost of repair or replacement is in excess of the insurance proceeds, the Association may levy an assessment against each of the Owners of the Townhouses that were damaged or destroyed pro rata on the basis that the cost of repair or replacement of a particular Townhouse bears to the total cost to repair or restore all Townhouses affected by the loss. Any such assessment levied against the Owner of a Townhouse that was damaged or destroyed will be billed to the Owner, charged against the Owner's Lot and secured by the lien against the Lot established in Article V. of this Declaration.

D. DEDUCTIBLE.

The amount of the deductible under the Association's property insurance policy may change from time to time, as approved by the Board of Directors of the Association. Payment of costs incurred before insurance proceeds are available will be as follows:

i. in the event a loss or damage originates from a condition outside a Townhouse, but the loss or damage was not caused by an Owner of the Townhouse or the Association, and the cost to repair the Townhouse is less than the deductible, the party responsible for the repair of the Townhouse will be in accordance with the provisions of this Declaration.

ii. in the event a loss or damage covered by the Association's property insurance policy is caused wholly or partly due to an act or omission of an Owner or the guest or invitee of an Owner, including tenants and occupants of the Owner's Townhouse, the Owner will be liable for:

(a) the full amount of any deductible on the Association's insurance policy, and

(b) any other expense in excess of insurance proceeds. The Owner (or tenant) must also submit a claim with his or her individual insurance carrier for any loss resulting from such actions.

Such expenses will be assessed against the Owner and the Owner's Townhouse.

iii. the Owner will be liable for the full deductible on the Association's property insurance policy in the event that:

(a) the loss originates within the Owner's Townhouse or results from unknown causes within the Townhouse (regardless of fault or negligence); or

(b) the cause of the loss cannot be determined and is only related to the Owner's Townhouse (regardless of fault or negligence).

The deductible will be assessed against the Owner and the Owner's Townhouse.

iv. in the event more than one (1) Townhouse is involved in any insured loss, and the cause of the damage cannot be attributable to any one Townhouse, Owner or tenant, the deductible will be proportionately distributed among all Owners who have experienced the loss. The amounts proportionally distributed will be assessed against each Owner and each Owner's Townhouse.

v. the Board of Directors of the Association has the authority to determine whether any loss or damage was:

(a) caused by or the result of the act (or negligence) of an Owner or the Owner's tenants, invitees or guests;

(b) caused by or the result of a condition that originated in a Townhouse; or

(c) caused by or the result of a condition or event exclusively related to a Townhouse.

The reasonable, good faith determination of the cause of a loss or damage by the Board of Directors of the Association will be conclusive and binding on all parties.

E. PREMIUMS.

Premiums for the insurance maintained by the Association will be an expense of the Association paid out of the Maintenance Fund. The total cost of the insurance maintained by the Association in any given year will be included in the budget for that year so that each Lot Owner pays the same amount for the insurance maintained by the Association.

SECTION 7.2. INSURANCE MAINTAINED BY OWNERS OF LOTS.

Each Owner of a Townhouse is required to at all times maintain insurance on the contents, furnishings and personal property within the Owner's Townhouse and all parts of the Townhouse not covered by the property insurance policy maintained by the Association. All policies of casualty insurance carried by each Owner must be without contribution with respect to the property insurance policy maintained by the Association for the benefit of all of the Owners of the Townhouses as set forth in Section 7.1. of this Article VII. Owners of Townhouses are also required to at all times maintain individual policies of liability insurance at their own cost and expense. An Owner of a Townhouse must provide to the Association certificates of insurance properly executed by a duly authorized insurance company representative upon reasonable written request.

SECTION 7.3. INDEMNITY OF ASSOCIATION.

Each Owner is responsible for any costs incurred as a result of such Owner's negligence or misuse or the negligence or misuse of his family, tenants, guests, invitees, agents, employees, or any resident or occupant of his Townhouse, and by acceptance of a deed to a Lot does hereby indemnify the Association, its officers, directors and agents, and all other Owners against any such costs.

SECTION 7.4. SECURITY.

DECLARANT, THE ASSOCIATION, THEIR RESPECTIVE DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS AND ATTORNEYS, ("ASSOCIATION RELATED PARTIES") WILL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. THE ASSOCIATION RELATED PARTIES ARE NOT BE LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. OWNERS, LESSEE AND OCCUPANTS OF ALL LOTS, ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE THAT THE ASSOCIATION RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR

ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVISES, OR OTHER SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVISES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. OWNERS, LESSEES, AND OCCUPANTS OF LOTS ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION RELATED PARTIES ARE NOT AN INSURER AND THAT EACH OWNER, LESSEE AND OCCUPANT OF ANY LOT AND ON BEHALF OF THEMSELVES AND THEIR GUESTS AND INVITEES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO TOWNHOUSES AND TO THE CONTENTS OF THEIR TOWNHOUSE AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR LESSEE ON BEHALF OF THEMSELVES AND THEIR GUESTS OR INVITEES RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVISES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

ARTICLE VIII.
AMENDMENT, DURATION, ANNEXATION AND MERGER

SECTION 8.1. AMENDMENT.

During the Development Period, Declarant has the authority to amend this Declaration, without the joinder or consent of any other party, so long as an amendment does not materially and adversely affect any substantive rights of the Lot Owners. After the expiration of the Development Period, Declarant has the right to amend this Declaration, without the joinder or consent of any other party, for the purpose of clarifying or resolving any ambiguities or conflicts herein, correcting any inadvertent misstatements, errors, or omissions, or modifying a provision to comply with a change in applicable law; provided, however, any such amendment must be consistent with and in furtherance of the general plan and scheme of development for the Community. In addition, the provisions of this Declaration may be amended at any time by an instrument in writing signed by the Secretary of the Association certifying that Owners representing not less than sixty-seven percent (67%) of the total votes allocated to Owners in the Association approved such amendment, setting forth the amendments and duly recorded in the Official Public Records of Brazos County, Texas; provided that, during the Development Period, to be valid, an amendment of this Declaration must also be approved in writing by Declarant. Provided further that, without the joinder of Declarant, no amendment may diminish the rights or increase the liability of Declarant under this Declaration. In the event that there are multiple Owners of a Lot, the written approval of an amendment to this Declaration may be reflected by the signature of a single Co-Owner. Any legal challenge to the validity of an amendment to this Declaration must be initiated by filing a suit not later than one (1) year after the date the amendment document is recorded in the Official Public Records of Brazos County, Texas.

SECTION 8.2. DURATION.

The provisions of this Declaration will remain in full force and effect until January 1, 2035, and will be extended automatically for successive ten (10) year periods; provided, however, that the provisions of this Declaration may be terminated on January 1, 2035, or on the commencement of any successive ten (10) year period by filing for record in the Official Public Records of Brazos County, Texas, an instrument in writing signed by Owners representing not less than ninety percent (90%) of the Lots. In addition, termination of this Declaration requires the written consent of the holders of first Mortgages representing not less than a majority of the Lots on which first Mortgages exist as of the date of recordation of the termination document.

SECTION 8.3. ANNEXATION.

Additional land may be annexed and subjected to the provisions of this Declaration by Declarant, without the consent of the Members, within ten (10) years of the date that this Declaration is recorded in the Official Public Records of Brazos County, Texas. Further, additional land may be annexed and subjected to the provisions of this Declaration with the consent of not less than two-thirds (2/3) of the Members of the Association present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present. Provided that, during the Development Period, the annexation of additional land also requires the written consent of Declarant. The annexation of additional land will be effective upon filing of record an annexation instrument in the Official Public Records of Brazos County, Texas.

SECTION 8.4. DEANNEXATION OF LAND.

During the Development Period, land made subject to this Declaration may be deannexed without the consent of the Members, by an instrument signed by Declarant and the Owner(s) of the land to be deannexed and recorded in the Official Public Records of Real Property of Brazos County, Texas. Thereafter, land made subject to this Declaration may be deannexed by an instrument signed by Owners representing not less than two-thirds (2/3) of the Lots and filed of record in the Official Public Records of Brazos County, Texas.

SECTION 8.5. MERGER.

Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association must administer the covenants and restrictions applicable to the properties of the merging or consolidating associations as one scheme. No such merger or consolidation will effect any revocation, change or addition to the provisions of this Declaration.

ARTICLE IX.
MISCELLANEOUS

SECTION 9.1. SEVERABILITY.

In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration will remain in full force and effect.

SECTION 9.2. NUMBER AND GENDER.

Pronouns, whenever used herein, and of whatever gender, include natural persons and corporations, entities and associations of every kind and character, and the singular includes the plural, and vice versa, whenever and as often as may be appropriate.

SECTION 9.3. ARTICLES AND SECTIONS.

Article and section headings in this Declaration are for convenience of reference and do not affect the construction or interpretation of this Declaration. Unless the context otherwise requires, references herein to articles and sections are to articles and sections of this Declaration.

SECTION 9.4. DELAY IN ENFORCEMENT.

No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof will impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

SECTION 9.5. ENFORCEABILITY.

The provisions of this Declaration will run with the Property and be binding upon and inure to the benefit of and be enforceable by Declarant, the Association, each Owner and occupant of a Lot in the Community, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. If notice and an opportunity to be heard are given as provided by law, the Association is entitled to impose reasonable fines for violations of the provisions of this Declaration or any Rules and Regulations adopted by the Association and to collect reimbursement of actual attorney's fees and other reasonable costs incurred by it relating to violations of the provisions of such documents. Such fines, fees and costs may be added to the Owner's assessment account and collected in the manner provided in Article V. of this Declaration.

SECTION 9.6. REMEDIES.

In the event any one or more persons, firms, corporations or other entities violates or attempts to violate any of the provisions of this Declaration or the Rules and Regulations, the Declarant, the Association, each Owner or occupant of a Lot within the Community, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages

caused by such violation or attempted violation. Provided that, notwithstanding the foregoing provisions, only the Association has the authority to enforce the provisions in Article V. of this Declaration relating to assessments.

SECTION 9.7. INTERPRETATION.

The provisions of this Declaration are to be liberally construed to give full effect to their intent and purposes. If this Declaration or any word, clause, sentence, paragraph, or other part thereof is susceptible to more than one conflicting interpretation, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration and the general plan of development established by this Declaration will govern.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration on this the 8th day of September, 2016, to become effective upon recording in the Official Public Records of Brazos County, Texas.

BCS DEVELOPMENT COMPANY
a Texas corporation

By: _____

Name: Doug French

Title: Vice President

JOINDER OF LIENHOLDER

The undersigned, being the owner and holder of an existing mortgage and lien upon and against all or a portion of the real property described in the foregoing Declaration of Covenants, Conditions and Restrictions for Barron Crossing and defined as the "Property" in said Declaration, as such mortgagee and lienholder, does hereby consent to and join in said Declaration of Covenants, Conditions and Restrictions for Barron Crossing.

This consent and joinder will not be construed or operate as a release of said mortgage or lien owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and lien will hereafter be upon and against the Property and all appurtenances thereto, subject to the provisions of the Declaration hereby agreed to.

SIGNED AND ATTESTED by the undersigned officers heretofore authorized, this the 8th day of September, 2016.

YADKIN BANK

By: _____

Print Name: Jeff Corbett

Title: Vice President

North Carolina

THE STATE OF ~~TEXAS~~ §
§
COUNTY OF Wake §

Before me, the undersigned authority, on this day personally appeared Jeff Corbett, Vice President of Yadkin Bank, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 8th day of September, 2016.

KATHY P. RUFIANGE NOTARY PUBLIC WAKE COUNTY, NC

Kathy P. Rufiange

Notary Public in and for the State of ~~Texas~~ North Carolina

My commission expires 10/28/2016

JOINDER OF LIENHOLDER

The undersigned, being the owner and holder of an existing mortgage and lien upon and against all or a portion of the real property described in the foregoing Declaration of Covenants, Conditions and Restrictions for Barron Crossing and defined as the "Property" in said Declaration, as such mortgagee and lienholder, does hereby consent to and join in said Declaration of Covenants, Conditions and Restrictions for Barron Crossing.

This consent and joinder will not be construed or operate as a release of said mortgage or lien owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and lien will hereafter be upon and against the Property and all appurtenances thereto, subject to the provisions of the Declaration hereby agreed to.

SIGNED AND ATTESTED by the undersigned officers heretofore authorized, this the 8 day of Sept, 2016.

COMMERCE NATIONAL BANK

By: Heather Price

Print Name: Heather Price

Title: AVP

THE STATE OF TEXAS §
§
COUNTY OF Brazos §

Before me, the undersigned authority, on this day personally appeared Price, Heather of Commerce National Bank, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 8 day of September, 2016.

TIMOTHY ELLIOTT CROWE JR
NOTARY PUBLIC
State of Texas
Comm. Exp. 06/23/2018

Notary Public in and for the State of Texas