
**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
TIMBERGROVE
(Heights at Minimax)**

**A RESIDENTIAL SUBDIVISION IN
HARRIS COUNTY, TEXAS**

NOTICE: THIS DOCUMENT SUBSTANTIALLY AFFECTS YOUR RIGHTS AND OBLIGATIONS AS AN OWNER OF PROPERTY IN THIS SUBDIVISION. **READ IT CAREFULLY,** WITHOUT LIMITATION, YOU ARE SPECIFICALLY ADVISED AS FOLLOWS: (i) ARTICLE III PROVIDES FOR MANDATORY MEMBERSHIP IN A PROPERTY OWNERS' ASSOCIATION, AND ARTICLE V PROVIDES FOR MANDATORY PAYMENT OF ASSESSMENTS TO THE ASSOCIATION AND A CONTINUING LIEN AGAINST YOUR PROPERTY TO SECURE PAYMENT OF ASSESSMENTS WHICH MAY BE FORECLOSED EVEN IF THE PROPERTY IS YOUR HOMESTEAD, (ii) ALL OWNERS AND TENANTS ARE REQUIRED TO MAINTAIN CAPABILITIES FOR RECEIPT OF NOTICES AND OTHER COMMUNICATIONS AND FOR PARTICIPATION IN MEETINGS BY "ELECTRONIC MEANS" (SEE ARTICLE II DEFINITIONS AND SECTION 10.05), (iii) THIS SUBDIVISION HAS A PRIVATE WATER SYSTEM, AND OWNERS ARE REQUIRED TO PAY UTILITY (WATER) ASSESSMENTS AS TO THE SAME (SEE SECTION 5.06.2), (iv) **PARKING ON EACH LOT IS LIMITED TO THE GARAGE ONLY,** PARKING ON SUBDIVISION STREETS IS HIGHLY LIMITED AND PARKING BY OWNERS, OCCUPANTS AND GUESTS IS OTHERWISE LIMITED AND HIGHLY REGULATED (SEE SECTIONS 7.03 & 8.01.2), (v) AS MORE PARTICULARLY DESCRIBED IN **EXHIBIT "A"** HERETO, THERE MAY BE CONDITIONS WITHIN OR WITHIN THE VICINITY OF THE SUBDIVISION AND/OR OTHER MATTERS WHICH ARE NOT SUITABLE FOR PARTICULAR PERSONS - ALL SUCH MATTERS MUST BE INDEPENDENTLY INVESTIGATED, (vi) DECLARANT RETAINS SUBSTANTIAL RIGHTS UNDER THIS DECLARATION, INCLUDING AS PROVIDED IN **EXHIBIT "B"** TO THIS DECLARATION AND ESPECIALLY DURING THE DECLARANT CONTROL PERIOD AND/OR THE DEVELOPMENT PERIOD, THE UNILATERAL RIGHT TO SET RATES FOR REGULAR ASSESSMENTS, AND TO IMPOSE SPECIAL AND SPECIFIC ASSESSMENTS, AND, WITHOUT NOTICE TO OR CONSENT OF ANY OWNER, TO ANNEX ADDITIONAL PROPERTIES INTO AND TO WITHDRAW PROPERTIES FROM THE SUBDIVISION, TO AMEND ANY PLAT, AND TO AMEND THIS DOCUMENT AND ANY OTHER "GOVERNING DOCUMENTS," AND (vii) SECTION B7.01 OF **EXHIBIT "B"** HERETO SETS FORTH MANDATORY PRECONDITIONS TO CERTAIN SUITS, ARBITRATIONS AND OTHER LEGAL PROCEEDINGS, AND PROCEDURES REGARDING MANDATORY DISPUTE RESOLUTION, INCLUDING A REQUIREMENT THAT A "DISPUTE NOTICE" MUST BE GIVEN TO DECLARANT WITHIN 120 DAYS AND ESTABLISHMENT OF A MAXIMUM TWO YEAR STATUTE OF LIMITATIONS. **YOUR RIGHTS TO ASSERT A "DISPUTE" MAY BE LOST IF YOU FAIL TO COMPLY WITH SECTION B7.01.**

AFTER RECORDING RETURN TO:

WILSON, CRIBBS & GOREN, P.C.
Attn: Mr. Lou W. Burton
2500 Fannin Street
Houston, Texas 77002

RP-2018-571776

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FOR
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A RESIDENTIAL SUBDIVISION IN HARRIS COUNTY, TEXAS

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**EXECUTION AND ACKNOWLEDGMENTS
MORTGAGEE/LIENHOLDER CONSENT**

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CONDITIONS, RESTRICTIONS AND EASEMENTS**

FOR

**TIMBERGROVE
(Heights at Minimax)**

A RESIDENTIAL SUBDIVISION IN HARRIS COUNTY, TEXAS

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

WHEREAS, **WEEKLEY HOMES, LLC**, a Delaware limited liability company authorized to do business in Texas (the "**Declarant**" herein), joined herein by the undersigned **CND – Timbergrove, LLC**, a Texas limited liability company, are the current owners of all of that certain real property located in Harris County, Texas, as more particularly described in **Section 1.01** hereof, and the said owners desire to create and carry out a general and uniform plan for the establishment, development, improvement, maintenance, occupancy and use of a residential community within the said property for the mutual benefit of the Owners thereof.

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

**ARTICLE I
PROPERTY SUBJECT TO THIS DECLARATION**

NOTICE: THERE MAY BE CONDITIONS WITHIN OR WITHIN THE VICINITY OF THE SUBDIVISION AND/OR OTHER MATTERS OF RECORD WHICH ARE NOT SUITABLE FOR PARTICULAR PERSONS. IT IS THE SOLE RESPONSIBILITY OF EACH PROSPECTIVE PURCHASER, OWNER, TENANT OCCUPANT AND OTHER AFFECTED PERSONS TO INDEPENDENTLY INVESTIGATE AND VERIFY THE PRESENCE OR ABSENCE OF ANY SUCH CONDITIONS AND TO OTHERWISE CONFIRM SUITABILITY (SEE ALSO EXHIBIT "A" TO THIS DECLARATION).

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

HEIGHTS AT MINIMAX, an addition in Harris County, Texas according to the map or plat thereof filed under Clerk's File No. RP-2018-303223, Official Public Records of Real Property of Harris County, Texas, and recorded in Clerk's File No. 685526, Map Records of Harris County, Texas.

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SECTION 1.02 Annexation; De-Annexation. Without limitation of Exhibit "B" hereto, during the Development Period Declarant and only Declarant (i) may annex and add any real property, including any Lot, in to and make the same a part of the Subdivision, (ii) may de-annex and remove any real property, including any Lot, from the Subdivision, and (iii) may change or reconfigure any real property, including any Lot, currently or hereafter made subject to this Declaration. Subject to Exhibit "B" hereto, after the Development Period the Owners may, by amendment of this Declaration, and with the consent of the applicable owner or owners thereof, annex additional real property in to and make the same a part of the Subdivision, or de-annex and remove any real property, including any Lot, from the Subdivision. Any such annexation or de-annexation must be evidenced by Filing of Record of and is effective from the date of Filing of Record of an amendment of this Declaration evidencing the annexation or de-annexation, or such later date as stated in the amendment.

ARTICLE II **DEFINITIONS**

Unless the context otherwise specifies or requires, and in addition to other defined terms set forth herein, the following words and substantive provisions regarding the same when used in this Declaration apply, mean and refer to the following:

"**Applicable Law**" means all statutes, public laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments or their agencies having jurisdiction as to the Subdivision, including applicable zoning, building codes, fire codes, health codes or safety codes, or permitting or licensing requirements, which are in effect at the time a provision of the Governing Document is applied, and pertaining to the subject matter of the provision. References to specific Applicable Law in the Governing Documents do not apply if and to the extent the same thereafter cease to apply, in whole or in part, by operation of law.

"**Architectural Reviewer**" means the Person(s) having architectural review authority as to the Subdivision as provided in this Declaration, including **Section 4.01** hereof. Until Declarant no longer owns any Lot or other land within the Subdivision Declarant may have retained architectural review authority. Accordingly, from time to time there may be more than one Architectural Reviewer and a division of authority as to the same as provided in **Article IV** hereof and Exhibit "B" hereto.

"**Architectural Guidelines**" means (i) minimum construction and design standards, including acceptable exterior materials, colors, finishes and similar standards, requirements or limitations (ii) landscaping, appearance and/or maintenance standards, requirements or limitations, (iii) protected property use policies, including as provided in **Section 8.14** hereof and/or as otherwise regarding or as permitted by the Texas Property Code, and (iv) any other procedural, aesthetic, environmental or architectural and/or design guidelines, rules, standards, requirements, limitations, policies or procedures as from time to time adopted or amended in accordance with this Declaration, including **Article IV** of this Declaration, regardless of nomenclature or manner of designation, and which may include Rules and Regulations.

"**Assessment(s)**" (whether or not capitalized) means and includes any monetary obligations levied, charged or assessed against a Lot or Owner or otherwise owed by any Owner or Owner's tenant to the Association as permitted or required by the Governing Documents or by Applicable Law, including all regular, special and specific assessments as provided in **Article V** of this Declaration.

"**Association**" means **Timbergrove Community Association, Inc.**, a Texas nonprofit corporation, to be incorporated for the purposes contemplated by this Declaration, and its successors (by merger, consolidation or otherwise) and assigns. The failure of the Association to maintain its corporate charter or good standing as a corporation from time to time does not affect the existence or legitimacy of the Association which derives its authority from the Governing Documents and Applicable Law.

"**Authorized Builder**" means those builders, if any and whether one or more, which have been approved in advance in writing by Declarant as provided in **Section B2.01** of Exhibit "B" to this Declaration.

"**Board**" or "**Board of Directors**" means the Board of Directors of the Association, each member thereof being a "**Director**".

"**Bylaws**" means the Bylaws of the Association which are interrelated regulations and rules for governance by the Association. The initial Bylaws may be adopted by Declarant or by the Board. The Bylaws may thereafter be amended by Declarant as provided herein or in the Bylaws, or as otherwise provided in the Bylaws. In the event of any conflict between the Bylaws and this Declaration, this Declaration will control.

"**City**" means the City of Houston, Harris County, Texas.

"**Community Properties**" means all properties, real or personal, and all facilities and services owned, leased, built, installed, maintained, operated or provided by or through the Association for the general benefit of the Subdivision. WITHOUT ANY REPRESENTATION, WARRANTY, OBLIGATION OR IMPLICATION WHATSOEVER THAT ANY PARTICULAR PROPERTIES, FACILITIES OR SERVICES WILL BE ACQUIRED, BUILT, INSTALLED, MAINTAINED, OPERATED OR PROVIDED, AND SUBJECT TO ALL RIGHTS AT ANY TIME OF DECLARANT OR THE BOARD TO ADD TO, MODIFY, REMOVE DISCONTINUE, SELL OR DISPOSE OF ANY OF THE SAME AS PROVIDED IN THE GOVERNING DOCUMENTS, COMMUNITY PROPERTIES INCLUDE:

(1) all common areas so designated herein or by a Plat intended for the common use or benefit of the Owners, including Restricted Reserves "A" through "M", inclusive, as so designated on the Initial Plat, and all amenities and other Improvements, if any, upon or within any such common areas;

(2) a swimming pool, pool house and related amenities and Improvements as may be located within or upon Restricted Reserve "D" as so designated on the Initial Plat, as determined by the Declarant during the Development Period or the Board thereafter;

(3) the "Common Water/Sewage Systems" as provided in or permitted by **Section 6.01**, and all "Drainage Devices" specifically designated as Community Properties as provided for permitted in **Section 8.04**, if any.

(4) all "Shared Drives" as hereinafter defined;

(5) any patrol or access limiting type services, structures or devices specifically obtained and maintained by the Association for such purposes, including without limitation any controlled access gates, guardhouses and related facilities, structures or devices, and all

Subdivision Fencing as defined and as provided in **Section 8.06**, including any Subdivision main entry fences, walls and/or entry and other identification monuments;

(6) all mail box banks, and/or water meters, water meter banks or water meter vaults and/or electrical meter banks, and similar facilities or devices so designated by Declarant as permitted by **Section 9.05** regarding certain subdivision facilities, if any, including entry, access and exit areas regarding the same,

(7) any garbage or recycling collection, cable or satellite television, utilities, including any street lighting, and any other services provided by or through the Association, and any structures or devices related thereto, and

(8) all other properties, real or personal, conveyed to or dedicated to the use of, or otherwise acquired by the Association for the common use or general benefit of, the Association, the Owners and/or the Subdivision, together with all Improvements thereon and appurtenances thereto.

"Declarant" means **WEEKLEY HOMES, LLC**, a Delaware limited liability company authorized to do business in Texas, and its successors and assigns if such successors or assigns: (i) acquire all of the then remaining undeveloped or developed but previously unoccupied or unsold Lots within the Subdivision from Declarant for purposes of development and resale; or (ii) are expressly designated in writings by Declarant as a successor or assign of Declarant hereunder, in whole or in part.

"Declarant Control Period" means the period during which Declarant retains exclusive authority and control as to the operation and management of the Association, including all governing and budgetary functions of the Association. The Declarant Control Period begins on the date of Filing of Record of this Declaration and ends upon occurrence of the "Declarant Control Transfer Date" as defined in Exhibit "B" hereto. The Development Period and the Declarant Control Period are independent periods which may or may not end on the same date.

"Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements for Timbergrove (Heights at Minimax), and all lawful amendments thereto.

"Development Activities" means and includes all activities regarding construction, development, marketing and sale of all Lots and of all other land within the Subdivision, providing for and construction and development of utilities and other facilities, and conducting of all other construction, development, marketing and sales activities by Declarant, by Declarant's Related Parties, or by any Development Personnel as herein provided and/or as otherwise deemed necessary or appropriate by Declarant for the completion of all development of the Subdivision by Declarant or its designees, including without limitation as provided in Exhibit "B" to this Declaration.

"Development Period" means the period of time, beginning on the date of Filing of Record of this Declaration, during which Declarant retains and reserves either rights to facilitate the development, construction, and marketing of the Subdivision, or rights to direct the size, shape, and composition of the Subdivision, and ending on the earlier occurrence of (i) 180 days after the Initial Sale of the last Lot in the Subdivision; or (ii) upon the date of Filing of Record of Declarant's notice of termination of the Development Period, provided that at any time prior to complete termination of the Development Period Declarant may file one or more statements of

limited termination of the **Development Period** to apply only to the **specific functions, rights and/or responsibilities** as stated therein.

"Electronic Means" means, refers to and applies to (i) any method of notices or other communications by email, by facsimile, or by posting on or other method of communication via an Internet website, or any combination thereof, as permitted by the **Governing Documents** or by Applicable Law, whereby the identity of the sender and receipt by the recipient can be confirmed, or (ii) holding of any meetings as permitted by the **Governing Documents** or by Applicable Law by using a conference telephone or similar communications equipment, or another suitable electronic communications systems, including videoconferencing technology or the Internet, or any combination thereof, whereby each participant may hear and be heard by every other participant. IT IS THE OBLIGATION OF EACH OWNER AND THEIR TENANT(S) TO MAINTAIN THE CAPABILITY TO RECEIVE ANY NOTICES OR OTHER COMMUNICATIONS FROM THE ASSOCIATION OR DECLARANT BY, AND TO PARTICIPATE IN ANY MEETINGS AS AFORESAID BY, ELECTRONIC MEANS. BY ACCEPTANCE OF ANY RIGHT, TITLE OR INTEREST IN ANY LOT, OR BY OCCUPANCY THEREOF, EACH OWNER AND THEIR TENANT(S) CONSENT TO THE USE OF ELECTRONIC MEANS BY THE ASSOCIATION OR BY DECLARANT AS TO ANY NOTICES, COMMUNICATIONS OR MEETINGS IN ACCORDANCE WITH THE GOVERNING DOCUMENTS, INCLUDING SECTION 10.05 HEREOF.

"Emergency" means any condition or exigent circumstances which may or does present an imminent and substantial risk of harm or damage to any Lot or Community Properties or any residence or other improvements thereon, or to any Owners or occupants thereof, including (i) any health, fire or safety hazard, including infestation by termites, rats or other vermin, and (ii) water infiltration. When applicable, the determination of the Board or its Related Parties that an Emergency exists is final.

"Filed of Record" or **"Filing of Record"** means an instrument that has been filed in, or the filing of an instrument in, the Official Public Records of Real Property of Harris County, Texas, or filed or filing in other public records as the context otherwise specifies or as requires or permitted by Applicable Law.

"Governing Documents" means all documents and applicable provisions thereof regarding the use, maintenance, repair, replacement, modification or appearance of any properties within the Subdivision, including each Lot, or any rights, responsibilities or obligations of any Owner, tenant or Related Parties pertaining thereto, or to the Association, the Board or the Architectural Reviewer, including without limitation this Declaration, the Bylaws and Certificate of Formation of the Association, Rules and Regulations, Architectural Guidelines, all written decisions and resolutions of the Board or the Architectural Reviewer, and all lawful amendments to any of the foregoing.

"Improvement" means, without implication that any particular matter is permitted or prohibited by this Declaration, any and all physical enhancements, modifications or alterations (by addition or deletion) within or to the Subdivision, including any Lot, and including without limitation (i) any grading, clearing, site work, utilities, landscaping, tree removal, irrigation, hardscape, flatscape, exterior lighting, establishment or alteration of drainage patterns or flow, drainage facilities, drainage devices, ponds, including detention or retention ponds, water features, and appurtenances of every type and kind, whether temporary or permanent in nature, and (ii) any residences, garages, driveways, patios, decks, balconies, terraces, awnings, buildings, outbuildings, storage sheds, tennis courts, sport courts, recreational facilities,

swimming pools, parking areas and/or facilities, storage buildings, sidewalks, walkways, trails, fences, gates, screening, retaining or any other walls, mailboxes, exterior air conditioning equipment or fixtures, and any protected property use devices as provided in **Section 8.12** hereof.

"Initial Sale" means and occurs as to each Lot (i) upon substantial completion of the construction of a single family residence and related Improvements upon the Lot, and (ii) the completion of the sale and the Filing of Record of the instrument(s) evidencing conveyance of title as to the Lot to a Person other than Declarant or an Authorized Builder, regardless of the order in which any of the foregoing occurs.

"Lot" means any of the numbered plots of land shown upon any Plat upon which a single family residence is, or may be, built. The term "Lot" does not include Community Properties (including any Lot or part thereof which is designated for the general use or benefit of the Owners and/or occupants of the Subdivision or is otherwise designated as or included in the Community Properties at any time by Declarant during the Development Period), and does not include any commercial or other unrestricted reserves so designated by a Plat, if any.

"Managing Agent" means one or more Persons as from time to time retained, hired, employed or contracted with to provide management services to the Association as provided in **Article X**.

"Member" means every Person who is an Owner and holds a membership in the Association. Every Member who is not a natural person must act through a representative of such entity who is a natural person as provided in the Association's Bylaws.

"Owner" means, whether one or more Persons (i) the owner as evidenced by instrument(s) Filed of Record of the fee simple title to a Lot, and (ii) the holder or purchaser from any mortgagee or other Person holding a lien, encumbrance or other security interest as of the date upon which any such holder or purchaser acquires title pursuant to any judicial or nonjudicial foreclosure, or any proceedings in lieu thereof. "Owner" does not include any mortgagee or other Person holding a lien, encumbrance or other interest merely as security for the performance of an obligation.

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

"Plat" means the initial maps or plats of the Subdivision as described in **Section 1.01** which initial maps or plats are sometimes herein referred to as the **"Initial Plat"**, all maps or plats of properties made a part of the Subdivision as provided in **Article I**, if any, which are hereafter Filed of Record, and all lawful modifications, amendments and/or replats of any of the foregoing.

"Posted Rules" means Rules and Regulations which are posted or otherwise displayed within the Subdivision if and as authorized by Declarant, the Board or Applicable Law, and which are not readily capable of or are not customarily Filed of Record. Posted Rules need not be Filed of Record and notice of Posted Rules is deemed to have been given immediately upon the posting or other display of the same. Posted Rules include for example but without limitation parking, speed limit and other traffic regulation or control signage, recreational center rules, restricted entry or usage signage and warning or caution signage. In the event of conflict. Posted Rules control over other Rules and Regulations.

"**Prevailing Community Standards**" means those standards of aesthetics, environment, appearance, architectural design and style, maintenance, conduct and usage generally prevailing in the Subdivision as reasonably determined by the Board or the Architectural Reviewer at any given pertinent time and from time to time, including as to each particular Improvement, Regulated Modification and each other matter or circumstance considered as of the date of the evaluation (i) prevailing standards as to harmony and compatibility with surrounding aesthetics, appearance and patterns of maintenance and use, harmony and compatibility with surrounding buildings, structures and other Improvements, and harmony and compatibility with surrounding grades, topography, finished ground elevations, locations, colors, finishes, styles, workmanship, type and quality of materials and designs, and (ii) compliance with the Governing Documents and with Applicable Law.

"**Regulated Modification**" means, without implication that any particular matter is permitted or prohibited by this Declaration, the commencement, placement, construction, reconstruction, erection, modification or alteration (by addition or deletion) on, below or above the surface of any Lot of, or the modification or alteration (by addition or deletion) to, any building, structure or other Improvement, and any usage thereof, whether temporary or permanent, which may affect, modify or alter the aesthetics, environment, architectural scheme, appearance or standards, patterns of usage, or grades or topography, or any other Prevailing Community Standards as of the date of establishment of the Regulated Modification.

"**Related Parties**" means and applies as follows:

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

(2) **Association, Board and Architectural Reviewer.** Related Parties of the Association, the Board and the Architectural Reviewer include their respective officers, directors, committee members, servants, agents, representatives and employees regarding all acts or omissions related to any of the foregoing representative capacities.

(3) **Declarant.** Related Parties of Declarant include (i) as to Declarant and its affiliated companies, subsidiaries, partners and co-venturers, and all of their respective "affiliates", "owners" and "governing persons" (as defined in the Texas Business Organizations Code), and (iii) as to all of the foregoing, their respective officers, directors, committee members, servants, agents, representatives and employees regarding all acts or omissions related to any of the foregoing representative capacities. Related Parties have no authority to act on behalf of or to bind or obligate Declarant except as expressly authorized by Declarant.

"**Rules and Regulations**" means all rules, policies and procedures, including as permitted or required by the Texas Property Code, concerning or regulating the appearance, maintenance, operation, use or occupancy of the Subdivision, including the Lots and Community Properties, or rights or obligations of Owners regarding the Subdivision or the Association, as from time to time adopted or amended in accordance with **Section 7.12** hereof, regardless of nomenclature or manner of designation, and which may include Architectural Guidelines.

"Shared Drive(s)" means each and all private streets, alleys and private roadway access easements within the Subdivision unless and until any of the same or any part thereof are dedicated to the public. The Shared Drives include in particular but without limitation each of the private streets designated on the Initial Plat as "Crimberry Avenue", "Zemmer Lane", "Turnbull Drive", "Reppart Place", "Biondo Way" and "Callaking Place". The Shared Drives do not include any part of the private driveway for each Lot, including any curb cuts as to the same. The Shared Drives also do not refer to or include any public streets, alleys or other roadways that are located outside the Subdivision.

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

**ARTICLE III
TIMBERGROVE
COMMUNITY ASSOCIATION, INC.**

SECTION 3.01 Establishment of Association.

3.01.1 Organization. The Association will be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure and management of the funds and financial affairs of the Association, enforcement of all provisions of the Governing Documents, providing for maintenance, preservation and architectural control within the Subdivision, the providing of such Community Properties as herein permitted or required, and all other acts and undertakings reasonably incident to any of the foregoing or in furtherance thereof.

3.01.2 Powers. The Association has full right, power and authority to exercise and to enforce all provisions of the Governing Documents, including without limitation (i) to exercise all powers available to a Texas nonprofit corporation, (ii) to exercise all powers of a property owners association pursuant to Section 204.010 of the Texas Property Code, as amended, the provisions of which are incorporated by reference herein, and (iii) to exercise all implied powers incident to the foregoing or necessary or proper to the Association's express powers or purposes, subject however to any limitations expressly stated in the Governing Documents. Without limitation of the foregoing, the Association is hereby expressly authorized (x) to acquire (by gift, deed, lease or otherwise), own, hold, improve, operate, maintain, sell, lease, convey, dedicate for public use, acquire, hold, use, and otherwise dispose of and/or alienate real and personal property as the Owners may deem necessary or appropriate and/or as provided in the Governing Documents, (y) to borrow money, and to mortgage, pledge, deed in trust or otherwise encumber, alienate or hypothecate any or all of the Association's real or personal property as security for money borrowed or debts incurred to conduct the lawful affairs of the Association, and (z) to compromise and settle any and all claims, demands, liabilities and causes of action whatsoever held by or asserted against the Association upon such term and conditions as the Board of Directors may determine.

SECTION 3.02 Board of Directors. The Association acts through a Board of Directors which is the governing body of the Association. The Board of Directors will manage the affairs of the Association as specified in the Governing Documents. Unless otherwise expressly required by Applicable Law, and subject to all Declarant rights, authority, powers, privileges and prerogatives as provided in the Governing Documents, the Board of Directors will exercise and have all rights, authority, powers, privileges, prerogatives and responsibilities of the Association.

The Board is specifically authorized to compromise and settle any and all claims, demands, liabilities and causes of action whatsoever held by or asserted against the Association upon such terms and conditions as the Board may determine, and the decisions of the Board as to any of the foregoing are final and conclusive. DECLARANT WILL APPOINT ALL MEMBERS OF THE BOARD OF DIRECTORS AND IS ENTITLED TO REMOVE (WITH OR WITHOUT CAUSE) AND REPLACE ANY OF THE SAME UNTIL EXPIRATION OR TERMINATION OF THE DECLARANT CONTROL PERIOD. UNLESS SOONER REMOVED (INCLUDING BY DEATH OR DISABILITY) OR DISQUALIFIED AS PROVIDED HEREIN OR IN THE BYLAWS OR OTHER GOVERNING DOCUMENTS, EACH DIRECTOR WILL SERVE UNTIL THEIR SUCCESSOR IS ELECTED OR APPOINTED AND HAS QUALIFIED.

SECTION 3.03 Membership. Every Owner must be and is a Member of the Association, and as such is subject to and has such rights, responsibilities and obligations as set forth in the Governing Documents. The Association is entitled to rely on instruments Filed of Record in determining such status as an Owner and may require submission to the Board of appropriate certified copies of such records as a condition precedent to recognition of status as an Owner. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest will not terminate any Owner's membership. No Owner, whether one or more Persons, may have more than one membership per Lot. Membership is appurtenant to and may not be separated from ownership of any Lot, and automatically passes with the title to the Lot.

SECTION 3.04 Voting Rights of Members.

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

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

(b) In addition to the vote or votes to which Declarant is entitled by reason of Declarant's ownership of one or more Lots as provided in Section 3.04.1(a), Declarant will have four additional votes for every one vote outstanding in favor of any Owner other than Declarant until the expiration or termination of the Development Period.

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

3.04.3 Cumulative Voting Prohibited. Cumulative voting is prohibited as to any matter placed before the membership for a vote, including election of Directors.

3.04.4 Right to Vote. No Owner may be disqualified from voting in an election of a member or members of the Board of Directors, or on any matter concerning the rights or responsibilities of the Owner, except as otherwise permitted by law.

SECTION 3.05 Association Books and Records.

3.05.1 Maintenance. The Association will keep current and accurate books and records of the business and affairs of the Association, including financial records, and including minutes of the proceedings at any meeting of the Board and any meeting of Owners. The Architectural Reviewer must also keep and maintain records evidencing the final decision(s) of the Architectural Reviewer regarding all requests for approval and requests for variance.

3.05.2 Inspection and Copying, and Retention Policies. Every Owner may inspect and copy books and records of the Association, and the Association must retain Association books and records, in accordance with the Association's policies as to the same which will be adopted in accordance with Section 209.005 of the Texas Property Code. Declarant or the Board may adopt the initial policies and at any time thereafter may adopt and amend the policies and such other policies regarding Association books and records as either may deem to be necessary or appropriate.

SECTION 3.06 Limitation of Liability; Indemnification.

3.06.1 General.

(a) "Association Representative(s)" Defined. As used in this Section 3.06.1, "Association Representative(s)" means each current or former director, governing person, officer, delegate, employee and agent of the Association, as such terms are defined in the Texas Business Organizations Code, including Declarant and Declarant's Related Parties whenever acting for or on behalf of the Association.

(b) Limitation of Liability. To the fullest extent allowed by the Texas Business Organizations Code, including Chapters 7 and 8 thereof, an Association Representative is not liable to the Association, to any Owner or Member of the Association, or to any other Person for any act by the Association Representative in the Person's capacity as an Association Representative unless the Person's conduct was not exercised in good faith, with ordinary care, and in a manner the Association Representative reasonably believes to be in the best interests of the Association.

(c) Indemnification. To the fullest extent allowed by the Texas Business Organizations Code, including Chapter 8 thereof, the Association agrees to and is required to indemnify, defend, and hold harmless, and to advance expenses to, each Association Representative, INCLUDING, IN EACH CASE, FOR CLAIMS BASED ON OR ARISING FROM SUCH PERSON'S SOLE, PARTIAL, OR CONCURRENT NEGLIGENCE, but excluding any such items incurred as a result of any act or omission for which the Association Representative is liable under the preceding subsection (b). The provisions of this subsection (c) constitute a determination that indemnification should be paid and a contract to indemnify as contemplated by Sections 8.103(c) and 8.151(d)(2) of the Texas Business Organizations Code.

(d) Report to Members. So long as required by the Texas Business Organizations Code, any indemnification of or advance of expenses to an Association Representative must be reported in writing to all Owners upon the earlier to occur of (i) with or

before the notice or waiver of notice of the next meeting of Members, or (ii) with or before the next submission to Members of a consent to action without a meeting, or (iii) within twelve months after the date of the indemnification or advance.

3.06.2 Monitoring Services, Criminal Conduct. The Association may from time to time engage in activities or provide Community Properties, devices or services intended to or which may have the effect of enhancing safety or security, including activities, devices or services limiting or controlling Subdivision access, or providing of patrol services or other monitoring activities within the Subdivision (including Community Properties), and may from time to time provide information through newsletters or otherwise regarding the same. Burglary or other unlawful or unauthorized intrusion devices or systems or other monitoring systems may also be initiated, installed or implemented as to the Subdivision, including any Community Properties. All such matters, activities, services or devices are herein referred to as "Monitoring Services". Without limitation of Section 3.06.1, each Owner and their tenants covenant and agree regarding any and all Monitoring Services and regarding any and all "Criminal Conduct" (as defined below), either within or outside of the Subdivision, as follows:

(a) SECURITY IS THE SOLE RESPONSIBILITY OF LOCAL LAW ENFORCEMENT AGENCIES AND OF INDIVIDUAL OWNERS, TENANTS AND THEIR RELATED PARTIES. Monitoring Services may be provided at the sole discretion of the Board of Directors. The providing of any Monitoring Services at any time will in no way prevent the Board from thereafter discontinuing, or from temporarily or permanently modifying, terminating or removing, any Monitoring Services, in whole or in part. Any third-party providers of Monitoring Services are independent contractors, the acts or omissions of which are not imputable to Declarant, the Association or any of their Related Parties.

(b) Providing of any Monitoring Services may never be construed as (i) an undertaking by Declarant, the Association or any of their Related Parties to provide personal security as to any Owner, tenant or their Related Parties, or as to any other Person, or (ii) a representation, guarantee or undertaking that any Monitoring Services will be continued, (iii) a representation, guarantee or warranty that the presence of any Monitoring Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, Criminal Conduct or any other cause, or (iv) a representation, guarantee or warranty that any Monitoring Service will provide the detection, prevention or protection for which the Monitoring Service was designed, designated or intended. WITHOUT LIMITATION OF THE FOREGOING, DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES DO NOT HAVE ANY DUTY WHATSOEVER TO WARN, ADVISE OR INFORM ANY OWNER, TENANT OR THEIR RELATED PARTIES AS TO CRIMINAL MATTERS OF ANY KIND, INCLUDING WITHOUT LIMITATION ANY MATTERS REGARDING OR RELATING TO ANY THEFT, BURGLARY, TRESPASS, ASSAULT, VANDALISM OR ANY OTHER CRIME, CRIMINAL HISTORY OR BACKGROUND OF ANY PERSON, OR CRIMINAL INVESTIGATIONS BY LAW ENFORCEMENT AGENCIES OR BY ANY OTHER PERSON (ALL SUCH MATTERS HEREIN REFERRED TO AS "CRIMINAL CONDUCT"), OR AS TO ANY OTHER MATTERS REGARDING OR RELATING TO MONITORING SERVICES, WHETHER ALLEGED, SUSPECTED OR KNOWN, AND WHETHER PAST OR PRESENT AND WHETHER OR NOT ANY SUCH CRIMINAL CONDUCT INVOLVES OR IS PERPETRATED BY ANY OWNER, TENANT, THEIR RELATED PARTIES, OR BY ANY OTHER OCCUPANT.

(c) The Association may (but has no obligation to) from time to time disclose and/or transmit information concerning Criminal Conduct to Owners, tenants, and any other occupants of Lots and/or any Community Properties, to any law enforcement agencies, and

to any other Person. Any such disclosure and/or transmittal of information does not in any way constitute an undertaking to do so in the future, either as to the Criminal Conduct then involved or as to any other current or future Criminal Conduct.

(d) **DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES ARE NOT LIABLE FOR AND EACH OWNER, TENANT AND THEIR RELATED PARTIES MUST INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES AS TO AND FROM, ANY CLAIM, DEMAND, INJURY, LOSS, DAMAGES, COURT COSTS AND ATTORNEYS' FEES OF ANY KIND WHATSOEVER REGARDING ANY PERSON OR PROPERTY AND PERTAINING TO OR ARISING, DIRECTLY OR INDIRECTLY, OUT OF ANY CRIMINAL CONDUCT, THE PROVIDING OR FAILURE TO PROVIDE ANY MONITORING SERVICE, OR THE DISCONTINUATION, MODIFICATION, DISRUPTION, DEFECT, MALFUNCTION, OPERATION, REPAIR, REPLACEMENT OR USE OF ANY MONITORING SERVICE.**

3.06.3 Subsequent Statutory Authority. If the Texas Business Organizations Code, Texas Nonprofit Corporation Law, Texas Miscellaneous Corporation Laws Act, Chapter 84 of the Texas Civil Practice and Remedies Code or any other Applicable Law, state or federal, is construed or amended to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this **Section 3.06**, then liability will be eliminated or limited and all rights to indemnification will be expanded to the fullest extent permitted by such construction or amendment.

3.06.4 No Impairment. Any amendment of this **Section 3.06** may not adversely affect any rights or protection existing at the time of the amendment. All rights and remedies set forth in this **Section 3.06** are cumulative.

ARTICLE IV **ARCHITECTURAL REVIEW AND CONTROL**

SECTION 4.01 The Architectural Reviewer. The Architectural Reviewer is Declarant or its designee(s) during the Development Period and also thereafter to the extent expressly herein provided, including as provided in Exhibit "B" to this Declaration. After the Development Period the Board will act as the Architectural Reviewer, excluding all matters pertaining to any retained architectural review authority of Declarant. As applicable, the act of a majority of such designees or members who are acting as the Architectural Reviewer constitutes an act of the Architectural Reviewer. The Architectural Reviewer is not entitled to compensation for the performance of the functions of the Architectural Reviewer as herein provided. The Architectural Reviewer may be reimbursed for reasonable expenses in such manner and amounts as may be approved by Declarant or the Board.

SECTION 4.02 Function and Powers.

4.02.1 Submission of Plans Required. No Regulated Modification may be commenced, constructed, erected, placed, modified, altered (by additional or deletion), demolished, rebuilt or reconstructed, maintained, made or permitted to remain upon any Lot or within any part of the Subdivision unless and until complete plans and specifications covering all aspects of the Regulated Modification have been submitted to and approved in writing by the Architectural Reviewer as to compliance with applicable Architectural Review Criteria as set forth in **Section 4.02.3**. One complete set of plans and specifications and, as applicable, copies of all required permits and any other approvals required by Applicable Law must be submitted with

each request for Architectural Reviewer approval unless a greater number is required by applicable Architectural Guidelines. Any plans and specifications to be submitted must include and specify, as applicable, and in such detail and form as may be required by the Architectural Reviewer or by Architectural Guidelines:

- (a) a survey or site plan showing the location(s) of all proposed Regulated Modifications in relation to all current structures and other Improvements;
- (b) the dimensions, nature, kind, shape, height, and color scheme and textures of, and all materials to be used in the construction of, the Regulated Modification;
- (c) appropriate information concerning structural, mechanical, electrical, plumbing, grading, paving, decking and landscaping details;
- (d) parking area, driveway and sidewalk plans;
- (e) all exterior lighting, including photometric plan;
- (f) all proposed screening, including as to size, location and method, as applicable;
- (g) intended uses; and
- (h) any other information or documentation as may be requested by the Architectural Reviewer and/or as provided in any applicable Architectural Guidelines.

4.02.2 Architectural Guidelines; Fees.

(a) The Architectural Reviewer may at any time adopt, modify and delete Architectural Guidelines applicable to the Subdivision, including Lots, as deemed appropriate to maintain or reasonably enhance Prevailing Community Standards of the Subdivision at the time of adoption. Without limitation of the foregoing, Architectural Guidelines may include the amount and manner of payment of any fees or charges to cover administrative costs, fees for architectural, engineering, construction, legal or other expert advice, consultation or other services, and all other costs and expenses in connection with review and evaluation of an application (such costs and expenses sometimes herein referred to as "Architectural Review Fees"). Architectural Review Fees may also be determined and assessed on a case by case basis as determined by the Architectural Reviewer without the necessity for adoption of Architectural Guidelines as to the same.

(b) Architectural Review Fees must be paid as directed by the Architectural Reviewer, and processing of any request for Architectural Reviewer approval is conditioned upon payment of the same. Any unpaid Architectural Review Fees may be specifically assessed to the applicable Lot and Owner.

(c) Architectural Guidelines are of equal dignity with, and are enforceable in the same manner as, the provisions of this Declaration, provided that (i) Architectural Guidelines may not be deemed a waiver, amendment, modification or repeal of any of the provisions of this Declaration, and (ii) Architectural Guidelines may not be enacted retroactively except that all repairs, modifications, maintenance or other work performed subsequent to adoption must be performed in such manner as to bring the Regulated

Modification, so far as practicable, in to compliance with all then applicable Architectural Guidelines.

4.02.3 Architectural Review Criteria. The Architectural Reviewer must evaluate all submitted requests for Architectural Reviewer approval on the individual merits of each request and based on evaluation of the compatibility of the proposed Regulated Modification with Prevailing Community Standards and compliance with the Governing Documents as of the date of submission of each request. The Architectural Reviewer must also use reasonable efforts to achieve consistency in the approval or denial of specific types of Regulated Modifications. To this end, consideration will be given to (but the Architectural Reviewer is not bound by) similar requests for architectural approval and the decisions and actions of the Architectural Reviewer with regard thereto. However, prior actions or decisions of the Architectural Reviewer will not constitute a waiver or precedence as to any subsequent requests for approval as to any plans or specification, or any other matters, whether similar or identical, and whether by the same or a different Person.

4.02.4 Responses.

(a) General. The Architectural Reviewer has full and complete authority to approve, conditionally approve or deny any request for Architectural Reviewer approval in accordance with this Article IV. The decisions of the Architectural Reviewer are final and conclusive. ANY CONDITIONAL APPROVAL IS SUBJECT TO STRICT COMPLIANCE WITH THE STATED CONDITIONS AND IS VOID IN THE EVENT OF ANY FAILURE TO COMPLY THEREWITH.

(b) Failure to Act; Re-Submission. If the Architectural Reviewer fails to approve, conditionally approve or deny a request for Architectural Reviewer approval within thirty days after the date of submission to the Architectural Reviewer, then the request for approval is deemed to have been denied. In such event the applicant may re-submit the identical request for Architectural Reviewer approval within sixty days after the original date of submission. The Architectural Reviewer must then approve, conditionally approve or deny a re-submitted request for Architectural Reviewer approval within thirty days after re-submission, failing which the re-submitted request is deemed to be approved.

(c) Proper Submission Required. A REQUEST FOR ARCHITECTURAL REVIEWER APPROVAL IS CONSIDERED TO BE SUBMITTED OR RE-SUBMITTED TO THE ARCHITECTURAL REVIEWER ONLY UPON RECEIPT BY THE ARCHITECTURAL REVIEWER OF (i) A FULLY COMPLETED, DATED AND SIGNED REQUEST FOR ARCHITECTURAL REVIEWER APPROVAL AND ALL REQUIRED PLANS, SPECIFICATION AND OTHER APPLICABLE INFORMATION AND DOCUMENTATION AS TO THE SAME, AND (ii) PAYMENT IN FULL OF APPLICABLE ARCHITECTURAL REVIEW FEES, IF ANY. AFTER THE DEVELOPMENT PERIOD DECLARANT'S RETAINED ARCHITECTURAL REVIEW AUTHORITY AS PROVIDED IN EXHIBIT "B" HERETO MAY RESULT IN A DIVISION OF SUCH AUTHORITY, AND IN SUCH CASE ANY REQUEST FOR ARCHITECTURAL REVIEW OR APPROVAL IS DEEMED TO BE RECEIVED ONLY UPON RECEIPT OF THE SAME BY THE CORRECT ARCHITECTURAL REVIEWER.

4.02.5 Unapproved Regulated Modification. ANY OWNER, AUTHORIZED BUILDER OR OTHER BUILDER OR PERSON WHO COMMENCES, CONSTRUCTS, ERECTS, PLACES OR MAINTAINS ANY REGULATED MODIFICATION UPON ANY LOT OR ELSEWHERE WITHIN THE SUBDIVISION WITHOUT OBTAINING PRIOR WRITTEN

APPROVAL OF THE ARCHITECTURAL REVIEWER ASSUMES SOLE LIABILITY FOR ALL DAMAGES, COSTS AND ATTORNEY'S FEES RELATING, DIRECTLY OR INDIRECTLY, TO THE UNAPPROVED REGULATED MODIFICATION. WITHOUT LIMITATION OF THE FOREGOING, DECLARANT OR THE ARCHITECTURAL REVIEWER MAY REQUIRE THAT THE UNAPPROVED REGULATED MODIFICATION BE REMOVED IN ITS ENTIRETY AND THAT ALL AREAS AFFECTED THEREBY BE RESTORED TO THEIR ORIGINAL CONDITION, OR THAT ANY REGULATED MODIFICATION BE ALTERED OR CHANGED AS DEEMED NECESSARY BY THE ARCHITECTURAL REVIEWER TO OBTAIN APPROVAL, ALL AT THE SOLE COST OF THE APPLICABLE OWNER.

4.02.6 Time for Commencement and Completion. Upon approval or conditional approval by the Architectural Reviewer, whether expressed or implied, the applicant to whom the same is given must commence as soon as practical thereafter and must continuously and diligently prosecute to completion all work as to the applicable approval or conditional approval. Such work must include, as applicable, full compliance as to all conditions as to a conditional approval. IF THE WORK IS NOT COMMENCED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE OF SUCH APPROVAL OR CONDITIONAL APPROVAL, THEN THE APPROVAL OR CONDITIONAL APPROVAL WILL BE AUTOMATICALLY REVOKED, UNLESS THE ARCHITECTURAL REVIEWER, FOR GOOD CAUSE SHOWN, HAS GRANTED AN EXTENSION OF TIME IN WRITING AS TO THE COMMENCEMENT OF THE WORK. If the work is commenced as aforesaid but is not thereafter continuously and diligently prosecuted to completion, then the Architectural Reviewer may make written demand for resumption of the work within a specified period of time of not less than ten days after the date of the notice and continuous and diligent prosecution of the work thereafter to completion, failing which the approval or conditional approval will be automatically revoked. In the event of revocation, the Architectural Reviewer may thereupon require within a specified period of time such modifications, additions, removals and/or restorations as to any work as deemed necessary by the Architectural Reviewer, at the sole cost and expense of the applicable Owner. The Architectural Reviewer may conduct any inspections as next provided and as deemed necessary to confirm such compliance.

4.02.7 Notice of Completion Required; Inspections. AS TO EACH APPROVAL OR CONDITIONAL APPROVAL BY THE ARCHITECTURAL REVIEWER, WRITTEN NOTICE OF COMPLETION OF ALL WORK AS TO THE SAME MUST BE GIVEN TO THE ARCHITECTURAL REVIEWER. The Architectural Reviewer or its representatives may, at any time during the review process as to any request for approval, or during the work in progress or within ninety days after receipt of a written notice of completion of all work, enter the applicable Lot for purposes of inspection regarding the review process, the work in progress or the completed work. Except in the case of an Emergency or unless otherwise agreed by the applicant and the Architectural Reviewer, not less than 48 hours written notice must be given as to any such inspection by Electronic Means or as otherwise permitted by this Declaration. If the Architectural Reviewer determines the work in progress or as completed does not fully comply with the applicable approval or conditional approval, or with any other applicable provisions of the Governing Documents, then the Architectural Reviewer may so advise the applicable Owner in writing by Electronic Means or as otherwise permitted by this Declaration, and may thereby require within a specified period of time such modifications, additions, removals and/or restorations as deemed necessary by the Architectural Reviewer to obtain full compliance.

4.02.8 No Waiver or Estoppel. EXCEPT FOR COMPLIANCE WITH THE PLAN APPROVAL PROVISIONS OF THIS ARTICLE IV, NO APPROVAL (EXPRESS OR IMPLIED) OR CONDITIONAL APPROVAL AND NO OTHER ACTION OR OMISSION OF THE ARCHITECTURAL REVIEWER, INCLUDING ANY INSPECTION OR FAILURE TO INSPECT AS

HEREIN PROVIDED, WILL EVER CONSTITUTE A WAIVER AS TO ANY OTHER PROVISIONS OF THE GOVERNING DOCUMENTS OR PRECLUDE BY WAIVER, ESTOPPEL OR OTHERWISE FULL ENFORCEMENT THEREOF.

SECTION 4.03 Variances. Declarant or the Board may grant specific variances to Architectural Guidelines, to Rules and Regulations and to the architectural and use restrictions set forth in **Articles VII and VIII** of this Declaration. A variance may be granted only with respect to specific instances upon written request therefor, is not binding with respect to any other request for a variance, whether or not similar in nature, and does not constitute a waiver, modification, amendment or repeal of any provisions of any Governing Documents except for the limited purpose(s) of and only to the extent of the specific variance expressly granted. A variance may be granted only upon specific findings (i) that the variance is necessary due to unusual circumstances which are reasonably beyond the control of the applicant to mitigate or rectify, or in other circumstances, such as due to topography or natural obstructions, as to which the Board determines a variance will result in a material enhancement to the applicant's Lot and/or to the Subdivision, and (ii) that the granting of a specific variance will not materially and adversely affect the architectural, aesthetic or environmental integrity of the Subdivision or the scheme of development therein. **WHETHER OR NOT SO STATED IN A VARIANCE AND NOTWITHSTANDING ANYTHING IN A VARIANCE TO THE CONTRARY, A VARIANCE EXTENDS ONLY FOR THE PERIOD OF TIME DURING WHICH, AND CONTINUES TO APPLY ONLY TO THE EXTENT THAT, THE CIRCUMSTANCES WHICH FORMED THE BASIS THEREFOR CONTINUE TO EXIST. THE BOARD RETAINS FULL AUTHORITY AS TO ANY VARIANCE AT ANY TIME TO TERMINATE OR MODIFY THE SAME IN ACCORDANCE WITH ANY SUCH CHANGE IN CIRCUMSTANCES.**

SECTION 4.04 Records of Architectural Reviewer. The Architectural Reviewer is not required to maintain records of any of its meetings. The Architectural Reviewer must keep and maintain records evidencing the final decisions of the Architectural Reviewer regarding all requests for approval and requests for variance for not less than four years. The Architectural Reviewer must also maintain a record of all current Architectural Guidelines, and must provide copies to Owners upon written request and at the Owner's expense.

SECTION 4.05 Limitations of Liability. Except as otherwise expressly provided in this Declaration, Declarant, the Association, the Board, the Architectural Reviewer, and their respective Related Parties are not liable to any Owner, the Owner's tenants, the Related Parties of either, or to any other Person for any acts or failure to act or in connection with any approval, conditional approval or disapproval of any request for approval or request for variance. The foregoing limitations of liability apply without limitation to mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval or any other act or omission of the Architectural Reviewer and no publication of Architectural Guidelines may ever be construed as representing or implying that, or as a covenant, representation, warranty or guaranty that, if followed, the Regulated Modification will comply with Applicable Law, or as to any matters relating to the health, safety, workmanship or suitability for any purpose of the Regulated Modification. Each Owner is wholly and solely responsible for compliance with all building codes, permitting requirements and other Applicable Law. No approval, conditional approval or any other act or decision of Declarant, the Association, the Board, the Architectural Reviewer or any of their Related Parties pursuant to the Governing Documents may even be deemed a representation, warranty or guarantee regarding any such compliance.

ARTICLE V
MAINTENANCE FUND

SECTION 5.01 Obligation for Payments to Maintenance Fund.

5.01.1 Establishment of Maintenance Fund; Types of Assessments. There is hereby established a Maintenance Fund in to which will be paid all assessments as provided for herein. The Board is responsible for the collection, management, control and expenditure of the Maintenance Fund. Each Owner of a Lot, by acquisition of any rights, title or interest therein or acceptance of an executory contract of conveyance, or a deed or other instrument of conveyance therefore, whether or not so expressed therein, covenants and agrees to pay all such assessments to the Association.

5.01.2 Purpose of Maintenance Fund. The Maintenance Fund must be used for the purposes of promoting the common benefit and enjoyment of the Owners and occupants of the Subdivision, including without limitation (i) the maintenance, repair and replacement as applicable of all Community Properties (including as required by any Applicable Law), (ii) providing of water and other utilities, trash collection services and other facilities and services as herein permitted or provided, (iii) payment of taxes, insurance, management, accounting and other professional fees or charges, (iv) for the establishment and funding of capital, contingency or other reserves, (v) the expenditure of funds for the benefit of other properties within the vicinity of the Subdivision if in the judgment of the Board the Subdivision will benefit thereby, (vi) the payment, performance or discharge of all obligations of the Association pursuant to the Governing Documents, and (vii) the doing of any other thing necessary or desirable in the opinion of Declarant or of the Board in the furtherance of or for accomplishment of any of the foregoing. The judgments of Declarant or of the Board regarding establishment, setting or any other matters pertaining to any Assessments and as to the collection, management and expenditure of the Maintenance Fund are final and conclusive.

5.01.3 Commencement and Proration; Personal Obligation; Transferees.

(a) Except as to builder assessments as provided in **Section B3.01** of Exhibit "B" hereto, the obligation to pay assessments commences as to each Lot upon the Initial Sale of each Lot. Assessments will be prorated at the time of closing on the Initial Sale of each Lot, and at the time of closing on each subsequent sale of the Lot, from the first day of the month following the month in which the closing occurs.

(b) In addition to the assessment lien herein established, each assessment is the personal obligation of each Owner of the Lot charged therewith at the time liability for the assessment accrued notwithstanding any subsequent transfer of ownership. Except as to statements of account as provided in **Section 5.01.4** or as to a transferee pursuant to a lawful and valid foreclosure of a superior lien as provided in **Section 5.07**, each Owner's transferee, whether by purchase, gift, devise or otherwise, and whether voluntary or by operation of law, is also jointly and severally liable for payment of all unpaid assessments owed to the Association at the time of transfer without prejudice to the rights of the transferee to recover from the transferor the amounts paid by said transferee.

5.01.4 Statement of Assessments. Any transferee (or prospective transferee) is entitled to a statement from the Association setting forth all assessments due as of the date of the written request as provided in Chapter 207 of the Texas Property Code. The request must be in writing, must be addressed to the Association and must be delivered by Electronic Means, by

registered or certified mail, return receipt requested, or by personal delivery with receipt acknowledged in writing. The Board may set a reasonable charge for providing a statement of indebtedness, the payment of which is a condition precedent to the Association's obligation to provide the same. Except for fraud or misrepresentation, if the Association fails to respond to a proper written request for a statement of indebtedness in accordance with Chapter 207 of the Texas Property Code, and upon submission of confirmation of receipt by Electronic Means, or by a properly executed registered or certified mail return receipt or delivery receipt evidencing receipt of the request by the Association, upon transfer the transferee is not liable for, and the Lot transferred is not subject to a lien for, any unpaid assessments against the Lot which have accrued prior to the date of the written request.

SECTION 5.02 Uniform Rates; Application of Payments. Subject to applicable provisions of Exhibit "B" hereto, regular and special assessments on all Lots must be fixed at a uniform rate and must be determined on a per Lot basis. All payments made by or on behalf of an Owner for assessments (regular, special or specific) are deemed made upon the date of receipt of the payment by the Association or its designated representative. Except as otherwise required by Texas Property Code, Section 209.0063 or as otherwise provided in applicable Association policies adopted in accordance therewith, all payments received, including payments received in consequence of judicial foreclosure, will be applied (i) first to payment of accrued interest, then to payment of accrued late charges, then to payment of compliance costs (including attorney's fees), and then to payment of all other specific assessments, (ii) then to payment of all special assessments; and (iii) finally to payment of all regular assessments. Application within each category will be on a first in, first out basis.

SECTION 5.03 Base Rate and Subsequent Computation of Regular Assessments.

5.03.1 Initial Base Rate of Regular Assessments; Due Dates. The initial full base rate of the regular annual assessment for 2018 per Lot (and continuing during 2018 and thereafter unless and until modified as herein provided) is ONE THOUSAND TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$1,250.00) per Lot per year. The Board has the right to require regular annual assessments be paid semi-annually, quarterly or monthly, in advance (instead of annually). If the Board does so, the semi-annual, quarterly or monthly installments of regular annual assessments, as the case may be, will be rounded upward to the next dollar, and the regular annual assessment will be automatically adjusted upward by the amount of such rounding. UNLESS AND UNTIL OTHERWISE DETERMINED BY THE BOARD AS AFORESAID, THE FULL AMOUNT OF REGULAR ANNUAL ASSESSMENTS IS DUE AND PAYABLE ANNUALLY, IN ADVANCE, ON THE FIRST DAY OF JANUARY OF EACH CALENDAR YEAR.

5.03.2 Subsequent Computation of Regular Assessments. DURING THE DECLARANT CONTROL PERIOD, DECLARANT IS ENTITLED TO ADOPT ANY BUDGETS REGARDING AND TO SET AND CHANGE THE ANNUAL RATE OF REGULAR ASSESSMENTS AS PROVIDED IN SECTION 5.10. Thereafter, the Board will adopt a budget at least annually to determine sums necessary and adequate to provide for the estimated expenses of the Association for the succeeding twelve-month period, including funding of capital, contingency and other reserves. The Board will set the annual rate of regular assessments based on the budget, and determine whether the same will be payable annually, semi-annually, quarterly or monthly. Written notice must be given to the Owners of all Lots if any change is made as to the amount of the annual rate of regular assessment or the due date(s) for payment of the same at least thirty days before the initial due date for payment.

SECTION 5.04 No Waiver or Release. Notwithstanding anything to the contrary herein, the omission or failure for any reason of the Association to mail or deliver a notice of annual assessment or due date for payment thereof does not constitute a waiver, modification or release of an Owner's obligation to pay assessments as otherwise herein provided.

SECTION 5.05 Special Assessments. In addition to the other assessments authorized herein, including other special assessments, the Board may levy special assessments at any time during each fiscal year for purposes of defraying, in whole or in part, any expenses not anticipated by the budget then in effect, or to replace part or all of any contingency, capital or other reserve fund, or for any other purpose as deemed necessary or appropriate by the Board. SO LONG AS THE TOTAL AMOUNT OF SPECIAL ASSESSMENTS IN ANY ONE FISCAL YEAR ALLOCABLE TO EACH LOT DOES NOT EXCEED FIFTY PERCENT (50%) OF THE AMOUNT OF THE REGULAR ANNUAL ASSESSMENT THEN IN EFFECT, THE BOARD MAY IMPOSE THE SPECIAL ASSESSMENT WITHOUT A VOTE OR THE APPROVAL OF ANY OWNER; PROVIDED, AT LEAST THIRTY DAYS WRITTEN NOTICE MUST BE GIVEN TO THE OWNERS OF ALL LOTS IN THE SUBDIVISION OF ANY SUCH SPECIAL ASSESSMENT. Special assessments allocable to each Lot exceeding the foregoing limitation will be effective only if approved by the Owners of a majority of the Lots then contained within the Subdivision. The approval may be obtained in any manner as provided for approval of an amendment of this Declaration. Special assessments are payable as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

SECTION 5.06 Specific Assessments.

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

(a) Capitalization Fees. At the time of closing on the sale of each Lot, beginning with the Initial Sale of each Lot, a "Capitalization Fee" must be paid to the Association as herein provided. At the time of closing as to the Initial Sale of each Lot, an initial Capitalization Fee must be paid to the Association in an amount equal to the greater of (i) ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00), or (ii) fifty percent (50%) of the then amount of the regular annual assessment, rounded up to the next dollar. At the time of closing as to each subsequent sale of each Lot a Capitalization Fee must be paid to the Association in the same amount as aforesaid, or such other amount as from time to time set by adoption of applicable Rules and Regulations. The buyer must pay the applicable Capitalization Fee unless otherwise agreed between buyer and seller. Capitalization Fees will be deposited in the Maintenance Fund and may be used by the Association for general operations, funding of any reserves or as otherwise determined by the Board. Capitalization Fees are nonrefundable and are not to be deemed in any manner as an advance payment of any other assessments.

(b) Interest. Interest from the due date at the rate of the lesser of eighteen percent (18%) per annum or the maximum legal rate, or such other rate or rates as from time to time determined by the Board or as set by the Association's assessment collection policies not to exceed the maximum rate allowed by law, will be charged on all delinquent assessments, annual, special or specific, as to each assessment account for each Lot which is not paid in full by the end of each month.

(c) Late Charges. A late charge in the amount of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) per month, or such other reasonable amount or amounts as from

time to time determined by the Board or as set by the Association's assessment collection policies, is hereby imposed as to each assessment account for each Lot which is not paid in full by the end of each month.

(d) Compliance Costs. All expenses reasonably attributable to or incurred by reason of a breach or violation of or to obtain compliance with any provisions of the Governing Documents must be assessed against the Owner who occasioned the incurrence of such expenses, including reasonable attorney's fees whether incurred prior to, during the pendency of or after successful completion of any actions in a court of competent jurisdiction. The foregoing includes, **without limitation**, all costs, expenses and reasonable attorney's fees incurred in connection with the judicial or nonjudicial foreclosure of the Association's assessment lien, including prosecution or defense of any claims or actions relating to any such foreclosure proceedings.

(e) Other Obligations (Including Transfer and Architectural Reviewer Fees). All other monetary obligations established by or pursuant to the Governing Documents or which are otherwise permitted or authorized by law, and which are intended to apply to one or several but not all Lots must be assessed against the applicable Owner(s). Except for fines, the Board may from time to time contract with Managing Agents to provide statements of assessments or other charges or resale certificates, or to process changes of ownership or tenancy or applications for architectural approval, and in connection therewith (but subject to authority of the Board to waive any specific assessment as herein provided) may by contract or resolution assign to such Managing Agent the right to set the amount of fees or charges for any such services and to receive payment of the applicable charge.

5.06.2 Utility Assessments, Including Water.

(a) Private Water System Notice. THE SUBDIVISION HAS A PRIVATE WATER SYSTEM. THE WATER SYSTEM IS NOT A PUBLIC WATER SYSTEM. THE WATER SYSTEM, INCLUDING WATER LINES AND FIRE HYDRANTS, MUST BE MAINTAINED BY THE ASSOCIATION AND/OR THE OWNERS IN ACCORDANCE WITH THE GOVERNING DOCUMENTS.

(b) Utility Assessments. IN ADDITION TO ANY OTHER ASSESSMENTS AS HEREIN PROVIDED, THE OWNER OF EACH LOT MUST PAY A UTILITY ASSESSMENT TO THE ASSOCIATION. Utility assessments are a specific assessment as to each Lot. Utility assessments must be used for the purposes of the payment of costs and expenses incurred by the Association to provide as to the Subdivision and each Lot as applicable and as provide herein (i) water (including as to storm/sanitary conveyance systems) (ii) waste disposal (including private trash collection services), (iii) fire hydrants, (iv) related facilities and services, (v) all maintenance, operation, repair or replacement as to the foregoing, and (vi) reasonable reserves. The foregoing will also include additional utility or other special services as may hereafter be approved as herein provided, if any. Determinations by Declarant or the Board as to facilities and/or services to be included in utility assessments and all other matters pertaining thereto are final.

(c) Rates; Payment. All utility assessment rates will be set by Declarant or the Board. Utility assessments must be paid in advance, either annually, semi-annually, quarterly or monthly as Declarant or the Board, as applicable, will determine, on or before the first day of the month of the applicable payment period. If paid other than annually, then the semi-annual, quarterly or monthly installments for utility assessments will be rounded

upward to the next dollar, and the regular annual amount of the utility assessment will be automatically adjusted upward by the amount of such rounding. The utility assessment rate must be uniform as to all Lots; provided, Declarant or the Board may at any time establish a different rate structure and/or apply surcharges or other specific assessments to individual Lots to cover added costs or expenses for swimming pools, spas or similar appurtenances, including as herein provided regarding in-ground swimming pools, or due to other factors unique to individual Lots which cause higher water usage or otherwise increase expenses related to the Lots. The utility assessment rate will be based on an estimate of future costs and expenses. Accordingly, if actual costs plus maintenance of reasonable reserves exceed the amount of utility assessments then collected, an interim utility assessment may be assessed by Declarant or the Board. Interim utility assessments are due and payable within ten days after written notice of the same is given to the Owners of each Lot, or such later date as may be expressly stated in the notice. UNLESS AND UNTIL OTHERWISE DETERMINED AS AFORESAID, THE ANNUAL UTILITY ASSESSMENT RATE IS ONE THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$1,100.00) PER LOT PER YEAR, AND IS DUE AND PAYABLE ANNUALLY, IN ADVANCE, ON THE FIRST DAY OF JANUARY OF EACH CALENDAR YEAR.

(d) Termination of Utility Services and Other Remedies. Upon not less than thirty days written notice and opportunity to be heard, the Association may terminate water or other utility services to a Lot as to which the Owner is delinquent in the payment of any utility assessments or any other assessments that are used, in whole or in part, to pay any costs for or providing of any utility services. In the event of termination of utility services, the Owner will also be specifically assessed for all costs of disconnection and reconnection of services. Costs of disconnection of services may include costs of installation of a locking shut-off valve which the Association is hereby expressly authorized to install. A nonexclusive easement is hereby reserved, granted and dedicated to the Association as to each Lot for purposes of disconnection and reconnection of service as aforesaid. The Board is specifically authorized to adopt Rules and Regulations regarding the foregoing and as to any other remedies in the event of default. Such Rules and Regulations may include without limitation requirements for maintenance of utility (water) deposits and payments therefrom and reimbursements thereof regarding any default in payment of utility assessments. The provisions of this subsection are cumulative as to all other rights and remedies of the Association, including as provided in **Section 5.08** regarding nonpayment of assessments.

5.06.3 Trash Collection Service. Private trash collection services will be provided through the Association as to all Lots within the Subdivision, unless, until and to the extent trash collection services are provided by the City or other government or quasi-governmental entity, as available, and as otherwise determined by Declarant or the Board. All costs and expenses to provide private trash collection services will be included in the utility assessment applicable to each Lot. Such services may be provided in accordance with ordinances, regulations and/or other requirements of the City and/or in accordance with such contracts and agreement as approved by Declarant or the Board at any time on behalf of the Association. Such services are not required to include pick-up or removal of large items such as sofas, chairs, dishwashers, refrigerators, stoves, televisions, large amounts of construction or remodeling materials or other items or materials other than normal accumulations of household trash, and to the extent not included all such items must be removed by and at the sole cost of the applicable Owner.

5.06.4 Facilities Maintenance and Water Usage. All plumbing, water and sewer related facilities which service a Lot and any improvements thereon, including all Owner Utilities as provided in **Section 6.02**, must be regularly inspected and must be properly maintained at all times. Without limitation of the foregoing, the inspections and maintenance must

be sufficient to prevent, and nothing is permitted to be done and no condition may be permitted to exist which may or does cause, water leakage, excess water usage or any other waste of water. The foregoing includes without limitation proper utilization and maintenance of any irrigation system for each Lot to the extent not controlled or maintained by the Association. If in the opinion of the Board any violation of the foregoing may or does exist, the Board may install, or require the Owner of the applicable Lot to install and maintain, such devices as may be reasonably required to monitor water usage, may require specific modifications, replacements and/or repairs to specific water related facilities and may take such other action as the Board deems appropriate to prevent or cure any such violation. REGARDLESS OF NEGLIGENCE, EACH OWNER IS OBLIGATED TO PAY ALL COSTS, EXPENSES AND ANY OTHER DAMAGES WHICH ARE ATTRIBUTED TO THE OWNER'S LOT REGARDING ANY WATER LEAKAGE, EXCESS WATER USAGE, WASTE OF WATER OR ANY OTHER VIOLATION OF THE FOREGOING, EITHER TO THE ASSOCIATION AS A SPECIFIC ASSESSMENT AS TO ANY SUCH COSTS, EXPENSES OR DAMAGES INCURRED BY THE ASSOCIATION, OR DIRECTLY TO ANY OWNER OR OWNERS AS TO ANY SUCH COSTS, EXPENSES OR DAMAGES INCURRED BY THE OWNER OR OWNERS. THE FOREGOING DOES NOT OBLIGATE DECLARANT, THE ASSOCIATION OR THEIR RELATED PARTIES TO UNDERTAKE ANY MONITORING OR CURATIVE ACTION; AS TO THE SAME AND THEY HAVE NO LIABILITY WHATSOEVER REGARDING ANY OF THE SAME.

5.06.5 Other Utility or Special Service Assessments. Additional utility or other special services to be provided by or through the Association (such as, for example, for cable or satellite television services) may be approved (i) by Declarant during the Development Period, or (ii) by majority vote of the Owners at any special meeting of Owners called for such purpose after the Development Period. NOTICE OF APPROVAL OF ANY SUCH ASSESSMENT MUST BE FILED OF RECORD.

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

SECTION 5.07 Lien for Assessments.

5.07.1 Establishment of Lien. All sums assessed against any Lot pursuant to this Declaration, whether by regular, special or specific assessment as provided herein, are secured by a continuing lien on such Lot in favor of the Association.

5.07.2 Perfection of Lien. The recordation of this Declaration constitutes record notice and perfection of the Association's continuing lien, effective from the date of recordation of this Declaration. No further recordation of a claim of lien or other notice of any type or kind whatsoever is required to establish or perfect such lien. To further evidence such lien as to any one or more Lots, the Association may, but is not required to, from time to time prepare one or more written notices of default in payment of assessments to be Filed of Record, in such form as the Board may direct.

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

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

(b) a first lien securing payment of purchase money for a Lot, or a lien securing payment for work and materials used in constructing Improvements on a Lot (a "**First Lien**") (i) as to and only as to assessments (regular, special or specific) the obligation for payment of which accrues from or after the date the applicable First Lien is duly Filed of Record, and (ii) as to and only to the extent of unpaid sums secured by such First Lien;

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

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

(e) such other mortgages, deeds of trust, liens or other encumbrances to which the Board may from time to time by written agreement specifically and expressly agree, subject to such terms and conditions as set forth in the applicable written agreement.

5.07.4 Other Liens. Except as provided in **Section 5.07.3** or as otherwise expressly provided herein, all other Persons acquiring liens or encumbrances on any Lot are deemed to consent that such liens or encumbrances are inferior to the Association's lien for assessments, as provided herein, whether or not consent is specifically set forth in, and notwithstanding any contrary provisions in, any instruments creating such liens or encumbrances.

SECTION 5.08 Effect of Nonpayment of Assessments.

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

5.08.2 Automatic Remedies. Except to the extent otherwise expressly required by law or unless otherwise agreed in writing by the Board, if any assessments are not paid by the due date, then:

(a) late charges, interest from the due date, and all compliance costs (including reasonable attorney's fees) will be added to and included in the amount of any such assessment except as otherwise expressly provided herein;

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

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

5.08.3 Elective Remedies After Notice. If any assessments are not paid within thirty days after the due date, then the Association may elect to exercise any or all of the following remedies, in addition to and not in lieu of the automatic remedies as above provided, and without prejudice to any other rights or remedies, provided that notice and opportunity to be heard is first given:

(a) Acceleration of Assessments. The Association may accelerate, through the end of the year in which notice of default and acceleration is given and for an additional six-month period thereafter, all regular assessments and all special or specific assessments (including any installment payments) due or to become due during the acceleration period. All such accelerated assessments are deemed to be specific assessments as to the applicable Lot and Owner thereof.

(b) Suspension of Services. The Association may suspend until all assessments (including all specific assessments) are paid in full, all rights of the delinquent Owner, the Owner's tenants, and the Related Parties of either (i) to receive any and all services provided by the Association to the applicable Lot and any Improvements thereon, and/or (ii) to use, employ or receive the benefits of any other Community Properties, including all rights to use of any and all recreational facilities, if any. Notwithstanding the foregoing, no Owner, Owner's tenant, or any of their Related Parties may be denied any rights of ingress, egress or regress to or from the Subdivision.

5.08.4 Action for Debt; Foreclosure, Including Expedited Foreclosure.

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

(b) The Board or the then President of the Association may appoint, in writing, at any time and from time to time, an officer, agent, trustee, or attorney of the Association (the "Trustee") to exercise the power of sale on behalf of and as the agent of the Association. The Board or the then President of the Association may, at any time and from time to time, remove (with or without cause) any such Trustee and appoint a successor or substitute Trustee without further formality than an appointment and designation in writing. The Association has the right and power to bid on any Lot at any foreclosure sale, either judicial or nonjudicial, and to acquire, hold, lease, mortgage, or convey the same.

(c) If directed by the Association to foreclose the Association's continuing lien, Trustee will, either personally or by agent, give notice of the foreclosure sale as required by law, and will sell and convey the applicable property "AS IS", "WHERE IS", and "WITH ALL FAULTS" to the highest bidder, subject to prior liens, encumbrances and any other matters of record and without representation or warranty, express or implied, by Trustee or the

Association. The Association must indemnify Trustee and hold Trustee harmless from and against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the Association's lien or otherwise pursuant to the Governing Documents, including indemnification for all court and other costs, and attorney's fees incurred by Trustee in defense of any action or proceeding taken against Trustee regarding any of the foregoing.

(d) The filing of suit to collect any sums due hereunder or to foreclose the Association's continuing lien for assessments may never be considered an election so as to preclude exercise of any other rights or remedies. After foreclosure, either judicial or nonjudicial, the former Owner and anyone claiming under the former Owner must immediately surrender possession to the purchaser. If not, the former Owner and anyone claiming under the former Owner will be mere tenants at sufferance of the purchaser, and the purchaser may obtain immediate possession pursuant to any actions or remedies permitted by law, including an action for forcible detainer or eviction to be maintainable by the purchaser.

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

(f) The provisions of this Section 5.08.4 are subject to Texas Property Code, Section 209.009 regarding foreclosure sales that are prohibited in certain circumstances, Section 209.0091 regarding notices to certain lienholders, and Section 209.0092 regarding applications for expedited foreclosure and applicable rules of the Texas Supreme Court regarding the same. Declarant or the Board may amend this Section 5.08 in any manner deemed necessary or appropriate to conform to applicable provisions or requirements of the Texas Property Code and/or applicable rules pertaining thereto without the joinder, vote or consent of any Owner or any other Person.

5.08.5 Extinguishment of Inferior Liens. Foreclosure of the Association's continuing lien for assessments terminates, extinguishes and forever discharges all inferior or subordinate liens and encumbrances (being all liens and encumbrances except as provided by Section 5.07.3) as to the affected Lot. The foregoing applies to judicial and nonjudicial foreclosure of the Association's continuing lien for assessments regardless of whether or not the holder of the inferior or subordinate lien or encumbrance is made a party to or given notice of any proceedings in connection therewith, including without limitation to the fullest extent permitted by law whether or not made a party to or given notice of any judicial foreclosure suit and any other proceedings in connection therewith.

SECTION 5.09 Miscellaneous Provisions.

5.09.1 Effect of Foreclosure or Bankruptcy. The effect of judicial or nonjudicial foreclosure of a lien which is superior to the Association's continuing assessment lien under this Declaration, or acceptance of a deed in lieu thereof, and the effect of the discharge of an Owner in bankruptcy is determined as of the date of foreclosure, the date of signing of a deed in lieu which is accepted by the grantee or the date of filing of the bankruptcy in which the Owner is

discharged, as the case may be (the "**Discharge Date**"). Foreclosure or acceptance of a deed in lieu as aforesaid does not relieve the former Owner from the personal obligation for payment of assessments due as of the Discharge Date. The purchaser at foreclosure or grantee under a deed in lieu and an Owner discharged in bankruptcy is also relieved from any obligation for payment of assessments due prior to the Discharge Date.

5.09.2 No Merger. The Association's assessment lien is not, by merger or otherwise, extinguished or otherwise effected by acquisition of ownership of a Lot at any time and in any manner by the Association except as otherwise expressly agreed in writing by the Association.

5.09.3 Assessments as Independent Covenant. The obligation to pay assessments is a separate and independent covenant and contractual obligation on the part of each Owner. No off-set, credit, waiver, diminution or abatement may be claimed by any Owner to avoid or diminish the obligation for payment of assessments for any reason, including, by way of illustration but not limitation (i) by nonuse of any Community Properties or abandonment of a Lot, (ii) by reason of any alleged actions or failure to act by Declarant, the Association, the Board, the Architectural Reviewer, or any of their Related Parties, whether or not required under the Governing Documents, (iii) for inconvenience or discomfort arising from the making of repairs or improvements which may be or are the responsibility of Declarant, the Association, the Board, the Architectural Reviewer, or any of their Related Parties, or (iv) by reason of any action taken by Declarant, the Association, the Board, the Architectural Reviewer, or any of their Related Parties, to comply with Applicable Law, or any order or directive of any governmental authority, or pursuant to any judgment or order of a court of competent jurisdiction.

5.09.4 Assessment Collection Policies. The Association will adopt assessment collection policies consistent with this Declaration and in accordance with applicable provisions of the Texas Property Code. Declarant or the Board may at any time adopt and amend any such assessment collection policies as may be deemed to be necessary or appropriate.

SECTION 5.10 Declarant and Builder Assessments. NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF, ALL PROVISIONS SET FORTH IN EXHIBIT "B" HERETO APPLY REGARDING PAYMENT OF ASSESSMENTS BY DECLARANT OR ANY BUILDER.

ARTICLE VI **MAINTENANCE; CASUALTY LOSSES**

SECTION 6.01 Association Maintenance Responsibilities.

6.01.1 Association Maintenance.

(a) Community Properties - General. The Association will maintain, repair and replace all Community Properties, and keep the same in good repair. This maintenance includes, without limitation, maintenance, repair, and replacement of all landscaping, irrigation and other Improvements situated on any real property which is a part of the Community Properties.

(b) Suspension or Limitation of Usage Rights. If any Owner, tenant, Related Parties of either or any of their guests or invitees fail to fully comply with the Governing Documents regarding the use of any Community Properties, including as to all recreational facilities, if any, or with any Posted Rules regarding the same, then the Association may suspend

or limit any or all usage rights regarding the same as to the Owner, tenant. Related Parties of either and/or any of their guests or invitees. On the same basis the Association may require any Owner, tenant, Related Parties of either or their guests or invitees to immediately vacate any Community Properties, including any recreational facility or other applicable areas, and may thereafter suspend usage or limit usage rights as aforesaid. Notwithstanding the foregoing, no Owner, Owner's tenant, or any of their Related Parties may be denied any rights of ingress, egress or regress to or from the Subdivision but the Association may otherwise require full compliance with and otherwise fully enforce all applicable Governing Documents, including Posted Rules.

6.01.2 Common Water/Sewage Systems and Easements.

(a) Subject to any other provisions herein regarding maintenance by Owners, and to the extent not otherwise maintained by any governmental or quasi-governmental authority or utility provider, the Association will maintain, repair and replace any common water distribution system, storm water detention and/or pollution control or filtration system and sewage collection and disposal system which services the Subdivision (collectively referred to herein as the "Common Water/Sewage Systems"). Except as provided below, the foregoing includes performance and payment of all costs and expenses regarding compliance with applicable governmental ordinances, rules or regulations, including applicable bonding, permitting and inspection requirements and costs, and funding of reasonable capital and contingency reserves regarding the Common Water/Sewage System.

(b) The Common Water/Sewage Systems include only (i) the main water, storm water and sewage lines from the points of connection to the main lines maintained by any governmental authority or utility provider to the points of connection to lines which service individual Lots, (ii) storm water gutters and drains located within any Shared Drive, if any, (iii) any master water meters which service two or more Lots, (iv) any irrigation system maintained by the Association within or as to any Community Properties, (v) any detention pond, lake and associated water features such as fountains, and (vi) any lift station, storm sewer pumps, storm water interceptors, pollution, control or filtration systems, pipes, lines, wires, conduits, valves, manholes, hydrants (including fire hydrants) and other components, equipment or facilities which are an integral part of any of the foregoing.

(c) Without limitation as to any other applicable easements, Declarant hereby reserves and dedicates in favor of Declarant and the Association blanket easements upon, under, over and across the Subdivision, including each Lot, for the installation, maintenance, repair, operation, removal and/or replacement of the Common Water/Sewage System.

6.01.3 Lawn/Landscaping Maintenance by Association.

(a) Subject to the below provisions, the Association will provide general and routine lawn and landscape maintenance covering all accessible yard areas within each Lot which are not enclosed by fencing. Subject to the below provision, the aforesaid maintenance will include only the following: (i) cut and edge the lawn, (ii) routine weed removal and trimming and general maintenance of beds, excluding shrubs over four feet (4') in height and all trees regardless of location of any of the same upon a Lot, and (iii) routine fertilization twice per year.

(b) Each Owner must provide proper access and fully cooperate regarding all lawn and landscape maintenance by the Association as provided in and in the event

of default is subject to the provisions set forth below in this Section regarding access and cooperation.

(c) The obligations of the Association pursuant to this Section are limited to general and routine maintenance of lawn and landscape areas as herein provided. Specifically, but without limitation, lawn or landscape maintenance by the Association will not include (i) any type of treatment or control as to any rodent, vermin, pests or any wood or other infestations, including as to fleas, ticks, mosquitoes, caterpillars, billbugs, grubs, snails, worms, termites, bees, wasps or bee hives, mice, rats, squirrels or gophers, (ii) maintenance, treatment or replacement of any lawn or landscape due to disease, including as to large patch, brown patch, leaf spots, fungus, mold, mildew, rust and smut, or due to freezing, hail, hurricane or any other storm or any other weather conditions, or which may be caused or necessitated by any other casualty or condition, or which may otherwise be caused by the acts or omissions of an Owner, regardless of negligence, (iii) maintenance, operation, repair or replacement, of any lawn or landscaping irrigation system, (iv) maintenance of any atypical or exotic landscaping as determined by the Board (whether or not approved), or (v) providing to any individual Lot of any lawn or landscaping maintenance that is substantially greater than as generally provided throughout the Subdivision.

(d) No lawn or landscaping may be removed, added to or changed as to, and nothing else may be done within, any area maintained by the Association which may or does increase the Association's costs or expenses of maintenance without the prior written approval of the Board. Whether or not approved, the Association may specifically assess any such added costs or expenses of maintenance to the responsible Owner(s). The foregoing also includes without limitation specific assessment of any added costs or expenses resulting from any damage to or improper use or maintenance of any irrigation system.

(e) THE BOARD AT ANY TIME MAY SPECIFICALLY ASSESS THE OWNERS OF INDIVIDUAL LOTS TO COVER ADDED COSTS OR EXPENSES TO PROVIDE ANY LAWN OR LANDSCAPE MAINTENANCE AS PROVIDED IN THIS SECTION DUE TO FACTORS UNIQUE TO INDIVIDUAL LOTS, INCLUDING AS TO SIZE, CONFIGURATION OR OTHER FACTORS WHICH RESULT IN THE NEED FOR LAWN OR LANDSCAPING MAINTENANCE THAT IS SUBSTANTIALLY GREATER THAN AS GENERALLY PROVIDED THROUGHOUT THE SUBDIVISION AS DETERMINED BY THE BOARD.

(f) ALL LAWN AND LANDSCAPING MAINTENANCE THAT IS NOT PROVIDED BY THE ASSOCIATION AS TO EACH LOT AND ALL COSTS AND EXPENSES THEREOF ARE THE SOLE RESPONSIBILITY OF THE OWNER OF EACH LOT. ALL SUCH MAINTENANCE MUST BE IN ACCORDANCE WITH THE GOVERNING DOCUMENTS.

(g) NO LAWN OR LANDSCAPING WHICH IS LOCATED WITHIN ANY COMMUNITY PROPERTIES MAY BE REMOVED, ADDED TO OR CHANGED EXCEPT BY OR WITH THE PRIOR WRITTEN CONSENT OF THE BOARD.

(h) Upon not less than thirty days notice to all Owners the Board may change the specific area or areas of each Lot to be maintained (or not maintained) and/or the specific lawn or landscape maintenance to be provided (or not provided) as stated in subsection (a) above. The Board is also specifically authorized at any time to eliminate, expand, modify or in any other manner to change any and all lawn or landscaping areas or maintenance to be provided (or not provided) by the Association as provided in this Section, including subsection (a)

above, by amendment of this Declaration and/or by adoption of applicable Architectural Guidelines and/or Rules and Regulations.

(i) DECLARANT AND THE ASSOCIATION DO NOT REPRESENT, GUARANTEE OR WARRANT THE VIABILITY, HEALTH, TYPE, QUALITY, QUANTITY OR CONTINUED EXISTENCE OF ANY LAWN OR LANDSCAPING WITHIN OR IN THE VICINITY OF THE SUBDIVISION OR UPON ANY LOT, OR ANY MAINTENANCE REGARDING THE SAME. NO OWNER OR OTHER PERSON WILL EVER HAVE ANY CLAIM WHATSOEVER AGAINST DECLARANT OR THE ASSOCIATION OR ANY OF THEIR RELATED PARTIES REGARDING, DIRECTLY OR INDIRECTLY, ANY LAWN OR LANDSCAPING, OR ANY MAINTENANCE OR SERVICES TO BE PROVIDED (OR NOT PROVIDED) AS TO THE SAME.

6.01.4 Other Facilities or Services. The Association will maintain such other properties, real or personal, and such other facilities, services and Improvements as may be required by governmental authorities, any municipal utility districts or other utility providers, any special tax and development districts, and any other similar governmental entities with the authority to require any such maintenance, such maintenance to be in accordance with applicable contracts, agreements, ordinances, rules, regulations and decisions of such authorities. Declarant is specifically authorized to enter or amend any such contracts or agreements on behalf of the Association, and to bind the Association thereto. The Owners may also approve as herein provided the providing of other Community Properties, including other facilities and/or services to be provided by or through the Association and specific assessments as to the same, by majority vote at any special meeting of the Owners called for that purpose.

6.01.5 Access; Cooperation. Each Owner, tenant and their Related Parties must provide access upon, above, under and across the Owner's Lot and otherwise fully cooperate with the Association and its Related Parties to the fullest extent reasonably necessary for any maintenance, repair, operation, reconstruction or replacement by the Association as permitted or required by the Governing Documents, including this Section 6.01. The foregoing includes prompt and full compliance with all policies, decisions and directives of Declarant or the Association. Any Owner who does not provide proper access or cooperate as aforesaid must pay as a specific assessment all increased costs or expenses caused thereby, directly or indirectly. In addition, but without limitation of the Association's right to require providing of proper access and cooperation, the Association may elect not to provide any maintenance due to lack of proper access or cooperation in which case the applicable Owner must promptly and properly perform the maintenance at such Owner's sole cost and expense.

6.01.6 Owner's Liability for Payment of Association Costs. Each Owner, tenant, and their Related Parties, are expressly prohibited from doing anything which could or does (i) increase the Association's costs of insurance or result in cancellation or diminution in insurance coverage, (ii) cause damage to any Community Properties, including any Community Properties, or (iii) increase costs of maintenance, repair, replacement, management, operation or discharge of any other obligations of the Association regarding the Community Properties, including any Community Properties, or any other areas maintained by the Association. Regardless of availability of insurance coverage, the Association may charge to each responsible Owner, as a specific assessment, all increased costs and all other damages resulting, directly or indirectly, from the acts or omissions of an Owner, tenants, or their Related Parties, in violation of the foregoing provisions.

SECTION 6.02 Owner Maintenance Responsibilities.

6.02.1 General; Interior Maintenance. Except as otherwise herein expressly provided, all maintenance, repair and replacement of and as to each Lot and all Improvements thereon is the sole responsibility of the Owner thereof. Each Owner must maintain their Lot and all Improvements thereon at all times in such manner as to obtain and maintain Prevailing Community Standards on a continuing basis as may be more specifically determined by the Governing Documents. Without limitation of the foregoing, each Owner must properly maintain, at each Owner's sole cost and expenses, the interior of the Owner's residence and garage, including all fixtures, equipment, appliances, things and devices located therein. MAINTENANCE WHICH AFFECTS THE EXTERIOR APPEARANCE OF A RESIDENCE OR GARAGE IS SUBJECT TO APPLICABLE PROVISIONS OF ARTICLE IV REGARDING ARCHITECTURAL CONTROL COMMITTEE APPROVAL.

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

(a) The exterior paint on each Owner's residence must be maintained so that no portion thereof peels scales or cracks excessively, and all painted portions remain neat and free of mildew and discoloration. NO CHANGE IN THE EXTERIOR COLOR SCHEME OF A RESIDENCE AS ORIGINALLY CONSTRUCTED (INCLUDING AS TO THE ORIGINAL EXTERIOR PAINT COLOR OR COLORS OR THE CONFIGURATION OF THE COLORS) IS PERMITTED WITHOUT PRIOR WRITTEN APPROVAL FROM THE ARCHITECTURAL REVIEWER.

(b) All windows must be properly maintained at all times, including such that no caulking is chipped or cracked and no window panes are cracked or broken. All windowsills, door jams and thresholds, framing and trim for all windows and exterior doors, and all hinges, latches, locks and all other hardware which are a part thereof or are necessary to the proper functioning thereof, must be maintained at all times such that all remain whole, sound, in a neat and attractive condition and fully operational.

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

(d) All exterior surfaces on each Owner's residence, including siding, brick, stone and stucco, as applicable, must be properly maintained at all times.

(e) All exterior surfaces of each Owner's residence, including the roof and all walls, windows and exterior doors, must be periodically cleaned as needed to prevent mold, mildew or other discoloration.

(f) The roof on each Owner's residence must be maintained to prevent sagging, to prevent leaks, so that all shingles, tiles or slates are properly secured, curled shingles

or damaged shingles, tiles or slates are replaced, and no worn areas or holes are permitted to remain, and such that the structural integrity and exterior appearance of the roof is maintained. The appearance of the roof may not be changed by any such maintenance without the express written approval of the Architectural Reviewer.

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

(h) All concrete areas on each Owner's Lot, including sidewalks and driveway, must be maintained so that all cracks are appropriately patched or surfaced as they appear, expansion joints are maintained, repaired or replaced, as needed, and oil, grease and other stains are removed as they appear, and all such areas must be kept free of weeds, grass or other vegetation.

(i) All fences or walls erected on each Owner's Lot must be maintained to prevent any listing or leaning, all broken or damaged members and all holes and cracks must be repaired so that no portion thereof is permitted to rot or decay, and such fences and walls must otherwise be maintained as provided herein or in other applicable Governing Documents.

(j) All recreational equipment, which may be installed if and only if approved by the Architectural Control Committee, must be maintained to prevent any unsightly or unkempt condition, including for example but without limitation, proper maintenance of swing sets to prevent rust and corrosion, and proper maintenance of basketball goals to prevent rust and corrosion and by replacement as needed of torn or worn nets.

6.02.3 Owner Utilities and Easements.

(a) The provisions of this Section apply to all "Owner Utilities" as defined below, save and except to the extent the Association is expressly required by this Declaration to provide such maintenance or to the extent maintenance of any Owner Utilities are provided and actually performed by any governmental entity, utility or other service provider.

(b) The Owner of each Lot must maintain, in proper working order and on a continuing basis, and must properly repair and replace as needed all sanitary sewer lines and facilities, drainage or storm water lines and facilities, water pipelines, water sprinkler system, water meters and related water lines and facilities, electrical and gas lines, meters and facilities, telephone and any other telecommunication lines, devices or facilities, and all other facilities, utilities and services which exclusively service the Owner's Lot (the "Owner Utilities"), regardless of the location of the Owner Utilities.

(c) Utilities which service more than one Lot must be maintained, repaired and replaced by all of the Owners of the multiple Lots served, pro rata, or in such other proportions as determined by the Board upon written request when the circumstances clearly demonstrate that a different manner of allocation is required.

(d) The Association may provide maintenance, repair and/or replacement regarding any Owner Utilities to the extent and in such manner as from time to time determined by the Board and may be specifically assessed all costs thereof to the applicable Owner(s), in whole or in part, as determined by the Board.

(e) UTILITY LINES, DEVICES AND RELATED FACILITIES FOR OWNER UTILITIES WHICH SERVICE EACH LOT MAY CROSS LOT OR OTHER PROPERTY LINES AND MAY BE LOCATED UPON MULTIPLE LOTS AND/OR COMMUNITY PROPERTIES BY OR WITH THE CONSENT OF DECLARANT OR THE BOARD. ALL SUCH UTILITY LINES, DEVICES AND RELATED FACILITIES ARE DEEMED TO BE A PART OF THE OWNER UTILITIES FOR THE APPLICABLE LOT OR LOTS SERVICED BY THE SAME. SUBJECT TO APPLICABLE PROVISIONS OF EXHIBIT "B" HERETO AND **SECTION 9.03** REGARDING NOTICE, DURATION, USAGE AND RESTORATION, EACH LOT AND THE COMMUNITY PROPERTIES ARE SUBJECT TO BLANKET EASEMENTS FOR PURPOSES OF THE INSTALLATION, MAINTENANCE, OPERATION, REPAIR AND/OR REPLACEMENT OF ALL SUCH UTILITY LINES, DEVICES AND RELATED FACILITIES BY DECLARANT, BY THE ASSOCIATION, BY ANY OWNER, AND BY THEIR RESPECTIVE RELATED PARTIES.

6.02.4 Lawn/Landscape Maintenance by Owners.

(a) All lawn and landscape areas, including without limitation all shrubbery, trees, flower beds, vegetation and all other landscaping, either natural or artificial, and all irrigation and maintenance as to the same as to each Lot which are not maintained by the Association must be properly maintained by and at the sole cost of the Owner of each Lot. Such maintenance for each Lot must be in accordance with the seasons and as reasonably necessary to obtain and maintain on a consistent and continuing basis a sanitary, healthful and attractive condition and appearance, and to eliminate any condition which may cause or create any unsanitary condition or become a harborage for rodents, vermin, pests or any wood or other infestations.

(b) Maintenance for each Lot as provided in subsection (a) must include as applicable and without limitation: (i) regular mowing and edging of grass and lawn areas, (ii) regular trimming and pruning of plants, shrubs, trees and all other landscaping as applicable, (iii) prompt treatment and control as to any rodent, vermin, pests or any wood or other infestations, including as to fleas, ticks, mosquitoes, caterpillars, billbugs, grubs, snails, worms, termites, bees, wasps or bee hives, mice, rats, squirrels or gophers, (iv) prompt treatment and control as to any lawn or landscape diseases, including as to large patch, brown patch, leaf spots, fungus, mold, mildew, rust and smut (v) prompt removal and replacement of like kind and quality of any dead, diseased or materially damaged grass or lawn areas, plants, shrubs, trees and any other landscaping, (v) proper utilization and operation of any irrigation system for the Lot, and proper maintenance and prompt repair or replacement of any damaged, defective or improperly functioning parts thereof, and (vi) full compliance with all other lawn and landscape maintenance obligations in accordance with the Governing Documents, including this Section and any reasonable requests by the Association as to the same.

(c) IN ANY CASE WHERE A LOT ABUTS A STREET OR SHARED DRIVE THE OWNER MUST IRRIGATE AND MAINTAIN ALL LAWN AND LANDSCAPING TO THE CURB OR EDGE OF THE STREET OR SHARED DRIVE REGARDLESS OF WHETHER THE LOT LINE IN FACT EXTENDS TO THE CURB OR EDGE OF THE STREET OR SHARED DRIVE, IF AND TO THE EXTENT ANY SUCH AREA IS NOT MAINTAINED BY THE ASSOCIATION.

(d) WITHOUT LIMITATION AS TO ANY OTHER RIGHTS OR REMEDIES, **SECTION 6.03** REGARDING RIGHTS OF ENTRY, INSPECTIONS AND OWNER DEFAULTS APPLY TO OWNER LAWN AND LANDSCAPE MAINTENANCE OBLIGATIONS.

NO LAWN OR LANDSCAPING UPON ANY LOT MAY BE MATERIALLY CHANGED UNLESS AND UNTIL PRIOR WRITTEN APPROVAL OF THE ARCHITECTURAL REVIEWER IS OBTAINED IN ACCORDANCE WITH ARTICLE IV OF THIS DECLARATION.

6.02.5 Adjacent or Adjoining Owners. No Owner or their tenant will allow any condition to exist or fail or neglect to provide any maintenance which materially and adversely affects any adjoining or adjacent Lot, any Community Properties, or any Improvements on any such Lot or the Community Properties.

6.02.6 Dispute Resolution Among Owners.

(a) Any disputes among Owners regarding any rights or responsibilities pursuant to this Article or as otherwise permitted or required by the Governing Documents may be submitted in writing to the Board. The Board also has full authority to direct submission of any dispute to the Board in writing. After notice and opportunity to be heard, the Board has full authority to resolve all such disputes, and its decisions as to same are final. The Board's authority includes without limitation the right and authority (i) to direct the completion of any maintenance, repair or replacement and to allocate costs thereof among the disputing Owners, (ii) to authorize one of the disputing Owners or a third party to control the completion of the maintenance, repair or replacement, (iii) to order the disputing Owners to mediation or arbitration through a county dispute resolution center or similar organization or under the Rules of the American Arbitration Association, and (iv) to allocate among the disputing Owners all costs of the maintenance, repair or replacement and all costs (including attorney's fees) incurred in the dispute resolution process.

(b) Each disputing Owner must pay their allocated share of compliance costs (including attorney's fees) within thirty days after receipt of a statement for payment thereof. A final costs statement may be submitted by the Board or may be submitted by disputing Owners to the Board for resolution as above provided. If any Owner fails to pay their allocated costs as aforesaid, all such costs will automatically be assessed as a specific assessment against the defaulting Owner. If one Owner has prepaid allocated costs of another and the prepaid sum is later collected by the Association, that sum (without interest if any) will be reimbursed to the Owner who prepaid same. All rights and remedies under this Section are cumulative.

SECTION 6.03 Right of Entry and Inspection; Owner's Default.

(a) In the event the Board determines that (i) an Owner may have or has failed or refused to discharge properly the Owner's maintenance obligations as provided in this Article, or (ii) the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder may have or has been caused through the willful or negligent act or omission of an Owner, the Owner's tenants, or their respective Related Parties, then the Association may conduct inspections of any affected Lot, the exterior of the residence and all other buildings thereon, and all other structures and Improvements thereon (a "Compliance Inspection") and/or perform the repair, replacement or maintenance (the "Required Work") in accordance with this Section.

(b) The Association must give written notice of intent to conduct a Compliance Inspection and/or to perform Required Work. The notice may be given by posting on the front door of the residence at the applicable Lot regardless of any other address maintained by the Owner, or in any other manner permitted by Section 10.05. Except in the case of an "Emergency" (as herein defined), the notice must give the applicable Owner not less than ten days to schedule a Compliance Inspection and/or to perform Required Work (or to commence

and thereafter proceed with diligence to completion of Required Work which cannot be reasonably completed in ten days), failing which the Association may proceed without further notice. In the case of an Emergency the Association may proceed immediately with any Required Work as either deems necessary to abate the Emergency but will thereafter proceed as aforesaid.

(c) All costs and expenses of conducting a Compliance Inspection as to which a violation is determined to exist, and all costs and expenses of Required Work performed by the Association will be assessed against the applicable Lot and the Owner thereof as a specific assessment which must be paid within ten days after notice of the same is given to the applicable Owner. The good faith determination by the Board as to the need for a Compliance Inspection and as to all aspects of Required Work is final and conclusive and extends to anything or condition as to such Lot or which adversely affects any other Lot or Community Properties. The Association, the Board and their Related Parties are not liable for trespass or any other tort or claim for damages in connection with any actions or failure to act pursuant to this Section.

SECTION 6.04 Casualty Losses - Association Responsibilities. Except as hereafter provided, in the event of damage by fire or other casualty to the Community Properties or regarding any other matters as to which the Association has an obligation to maintain pursuant to the Governing Documents, or if any governmental authority requires any repair, reconstruction or replacement as to same, the Association must perform all repairs, reconstruction or replacement necessitated thereby (the "**Casualty Work**"). The Casualty Work must substantially restore the Community Properties to its condition prior to the casualty or as required by the governmental authority. Any insurance proceeds payable as to the Casualty Work must be paid to the Association. Except for Casualty Work which is required by any governmental authority, the Owners may agree not to perform any Casualty Work. Any decision not to perform Casualty Work must be submitted to the Owners at a special meeting of Members called for that purpose and must be approved by affirmative vote of the Owners of not less than a majority of all Lots then contained in the Subdivision.

SECTION 6.05 Casualty Losses - Owner Responsibilities.

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

6.05.2 **Manner of Repair or Removal.** All repair, reconstruction or replacement of any Damaged Improvement must be performed in such manner as to restore the Damaged Improvement to substantially the same exterior dimensions and appearance (including as to color, type and quality of materials and as to architectural style and details) as, and must be located in substantially the same location as, when the Damaged Improvement was originally constructed, or to such other appearance and condition as approved by the Architectural Reviewer. If any Damaged Improvement is not repaired, reconstructed or replaced as aforesaid, then the Damaged Improvement must be removed in its entirety from the Lot and the Subdivision, including removal of any foundation, and all other restoration work must be performed, including grading and sodding, as is required such that after demolition and removal Prevailing Community Standards are maintained as determined by the Architectural Reviewer.

6.05.3 **Utilities.** Notwithstanding any other provisions hereof to the contrary and whether or not insured, any damage or destruction to utility lines or other facilities which disrupt

or interfere with utility services to any other Lot, residence or Community Properties must be repaired or replaced as soon as practical. All due diligence must be exercised to complete all such repairs or replacements, including installation of temporary utility lines or other temporary facilities pending completion of the repairs and/or replacements if necessary to prevent disruption of utility services to any other Lot, residence or Community Properties.

6.05.4 Approval Required; Time Limits. Except for Emergency work as is required to avoid further damage or injury and except as otherwise provided in this Section, all work and all other activities pursuant to the requirements of this Section must be approved in accordance with **Article IV**. All such work must be commenced as soon as practical after the date of occurrence of the damage, casualty loss or other destruction, and must be continuously and diligently prosecuted to completion. In all events all such work must be completed within six months as to a residence, including appurtenant garage, and within ninety days as to any other Damaged Improvement, after the date of occurrence of the damage, casualty loss or other destruction unless, for good cause shown, a longer period is approved by the Architectural Reviewer.

SECTION 6.06 Owner Insurance. NOTWITHSTANDING ANY PROVISIONS OF THE GOVERNING DOCUMENTS (i) OBTAINING OF LIABILITY AND PROPERTY INSURANCE REGARDING AND FOR EACH LOT AND ALL IMPROVEMENTS THEREON (INCLUDING RESIDENCES AND APPURTENANT STRUCTURES AND THE CONTENTS THEREOF) IS THE SOLE RESPONSIBILITY OF THE OWNER, TENANT AND/OR OTHER OCCUPANT THEREOF, AND (ii) DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES HAVE NO OBLIGATION WHATSOEVER TO CONFIRM OBTAINING OF ANY INSURANCE AS AFORESAID AND HAVE NO OTHER RESPONSIBILITIES REGARDING ANY OF THE SAME. THE FOREGOING OBLIGATIONS OF OWNERS INCLUDE FLOOD INSURANCE (SEE "WATER RUNOFF, INUNDATION AND FLOODING, AND FLOOD INSURANCE NOTICE" IN EXHIBIT "A" TO THIS DECLARATION).

SECTION 6.07 Association Insurance. To the extent reasonably available, the Association will maintain property insurance on all insurable Community Properties insuring against all risk of direct physical loss commonly insured against, including fire and extended coverage, in a total amount of at least eighty percent of the replacement cost or actual cost value of the insured property, comprehensive liability insurance, including medical payments insurance, libel, slander, false arrest and invasion of privacy coverage, and errors and omissions coverage, in amounts determined by the Board and covering all occurrences commonly insured against for death, bodily injury, and property damage, and such other insurance as the Board deems appropriate. The Board will determine all deductibles and all other matters pertaining to all Association insurance policies. DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES ARE NOT LIABLE FOR FAILURE TO OBTAIN ANY INSURANCE COVERAGE OR TO OTHERWISE COMPLY WITH ANY OTHER PROVISIONS OF THIS **ARTICLE VI** REGARDING THE SAME IF SUCH FAILURE IS DUE TO UNAVAILABILITY OR TO EXCESSIVE COSTS AS DETERMINED IN THE SOLE GOOD FAITH OPINION OF DECLARANT OR THE BOARD, OR FOR ANY OTHER REASON BEYOND THE REASONABLE CONTROL OF DECLARANT OR THE BOARD.

ARTICLE VII
USE RESTRICTIONS

SECTION 7.01 **Residential Use.**

7.01.1 **Single Family Residential Use Only.** Each and every Lot is hereby restricted to single family residential use only. No residence may be occupied by more than one single family. As used in this Declaration the term "**residential use**" is to be construed to prohibit the use of any Lot or the residence thereon for apartment houses or other type of dwelling designed for multi-family dwelling or use for or operation of a boarding or rooming house or residence for transients, or the use of any permitted outbuilding as an apartment or residential living quarters.

7.01.2 **No Business, Professional, Commercial or Manufacturing Use.** No business, professional, commercial or manufacturing use may be made of any Lot or any improvement located thereon, even though such business, professional, commercial or manufacturing use, is subordinate or incident to use of the premises as a residence, and regardless of whether or not done for profit or remuneration. Notwithstanding the foregoing, a single family residence may be used for maintenance of a home office, but if and only if such business activity (i) is consistent with the residential character of the Subdivision and does not cause any annoyance or unreasonable inconvenience to Owners or occupants of area Lots, (ii) does not require additional parking or increase traffic within the Subdivision, (iii) does not involve use of any part of the applicable Lot, or the residence, garage or other building or improvement thereon, by any Person other than the Owner, no on-site employees are otherwise permitted, and the public is not invited, permitted or allowed to enter the Lot to conduct any business thereon, (iv) is not detectable by sight, sound or smell from outside the residence, and there is no other external evidence thereof (including signs, advertising, or contacts in person at the residence with clients or customers), (v) does not involve the visible storage of any tools, equipment, materials, or inventory, and (vi) complies with all Applicable Law, including without limitation any permitting or licensing requirements applicable to the same.

7.01.3 **Single Family Defined.** To the fullest extent allowed by law, as used in this Declaration the term "**single family**" means either: (i) spouses, their dependent children and their dependent parents, grandparents, grandchildren, brothers and sisters who are maintaining a common household, and who are members of a single family related by blood, marriage or adoption; or (ii) natural persons not so related, but who are maintaining a common household and functioning as a single family unit with more than minimal or incidental familial, financial and other responsibilities among such persons, on a noncommercial basis, and in a single family residence with a common kitchen and dining area; and (iii) the bona fide domestic servants of either. "**Dependent parents, grandparents and grandchildren**" means such relatives who due to physical or mental impairment are not reasonably capable of maintaining, and who do not in fact maintain, a separate residence. Without limitation of the foregoing, "single family" does not include temporary household groups such as persons living together while attending an educational program (such as college), lodgers or boarders, or any other similar temporary or transient living arrangement.

7.01.4 **Maximum Occupancy.** In no event may a single family residence be occupied by more persons than the product of the total number of bona fide bedrooms contained in the single family residence multiplied by two. The "**number of bona fide bedrooms**" means the number of separate bedrooms contained in the applicable single family residence as originally

constructed, plus any additional bedroom which may thereafter be added and which has been specifically approved in writing for such use by the Architectural Reviewer, if any.

7.01.5 Group Homes; Day-Care Center; Treatment Facilities. To the fullest extent allowed by law, no Lot or any part of the single family residence thereon may be used for the operation of a group home, half-way house, day-care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matters.

SECTION 7.02 Pets, Animals and Livestock.

7.02.1 Permitted Pets; Leashing Required.

(a) No animals, hogs, pigs (including pot belly or pot-bellied pigs), horses, livestock, reptiles, fish, birds, poultry, fowl or insects of any kind may be raised, bred, kept or maintained on any Lot at any time except "Permitted Pets" which are domesticated dogs, cats and other domesticated, usual and customary household pets. Notwithstanding the foregoing, the following are hereby excluded as Permitted Pets and are not allowed upon any Lot or at any other place within the Subdivision: (i) any dog or cat which in fact exhibits viciousness or ill temper, or which in fact has caused injury to any person or to any other Permitted Pet, and (ii) any animal of any kind that has venom or poisonous or capture mechanisms, or if let loose would constitute vermin. All Permitted Pets must be kept on a leash, carried or otherwise maintained under the control of a responsible person when outside of a residence, or when not maintained in an enclosed yard from which the Permitted Pet cannot escape.

(b) NOT MORE THAN TWO PERMITTED PETS ARE ALLOWED PER LOT EXCEPT AS MAY BE AUTHORIZED BY A SPECIFIC VARIANCE GRANTED IN ACCORDANCE WITH THIS SECTION AND ARTICLE IV, OR AS MAY BE AUTHORIZED BY APPLICABLE RULES AND REGULATIONS. Each variance, if any, must be limited to a specific Owner or the Owner's tenant, and to a specific timeframe and specific circumstances to which the variance applies. For example, if an Owner is granted a variance to keep three dogs, the variance is limited to that specific Owner, and the variance will automatically terminate after any one dog ceases for any reason to be kept at the Lot.

(c) No Permitted Pets may be raised, bred, kept or maintained for commercial purposes. Subject to Section 7.04, the above limitation on the number of Permitted Pets does not apply to hamsters, small birds, fish or other similar usual and customary household animals, birds or fish which are continuously kept completely within a residence and does not require the removal of any litter born to a Permitted Pet prior to the time that the animals in such litter are three months old.

(d) Owners of a Permitted Pet must immediately remove and dispose of, in a sanitary manner, feces and any other excretions left by any Permitted Pet at any location in the Subdivision outside of the Owner's Lot. Owners of a Permitted Pet must periodically remove and dispose of, in a sanitary manner, feces and any other excretions left by any Permitted Pet at any location upon the Owner's Lot and/or within the Owner's residence as necessary to prevent any unsafe, unsanitary or odorous conditions. No Permitted Pet will be allowed to cause or create any nuisance, annoyance, or unreasonable disturbance or noise. Owners must also fully comply with all applicable laws, statutes and ordinances of any governmental agencies regarding each

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and all of each Owner's Permitted Pets, including without limitation all licensing and vaccination requirements.

7.02.2 Removal. The Board may cause any prohibited animals, livestock, hogs, pigs (including pot belly or pot-bellied pigs), horses, livestock, reptiles, fish, poultry or fowl within the Subdivision, including any Lot, to be removed from the Subdivision. The Board may also cause any Permitted Pet to be removed from the Subdivision due to any violation of applicable provisions of this **Section 7.02** or other Governing Documents and may prohibit the return of any of the same to the Subdivision. The foregoing includes any Permitted Pet which is allowed to roam free, or which in the sole opinion of the Board endanger health or safety, make objectionable noise, or constitute a nuisance or annoyance to the Owners or occupants of any other Lots or any Community Properties. Removal as aforesaid will be at the sole cost and expense of the responsible Owner or Owner's tenant, and without liability of any kind whatsoever to Declarant, the Association, their Related Parties, or any Person which the Board may direct to perform any such removal.

SECTION 7.03 Vehicles; Parking.

7.03.1 Definitions. As used in this **Section 7.03** (and in other Governing Documents as applicable), the following definitions apply:

"Vehicle" means a device in, on, or by which a person or property may be transported, including an operable or inoperable automobile, truck, motorcycle, recreational vehicle or trailer, and including without limitation of the foregoing such other devices as from time to time specified by applicable Rules and Regulations.

"Inoperable Vehicle" means any Vehicle which (i) does not have physically and properly displayed on the Vehicle both a current and valid license plate and current and valid state inspection sticker as required by Applicable Law, or (ii) which is not for any reason capable of lawful operation on the Shared Drive or other streets, or (iii) as otherwise determined by the Board or by applicable Rules and Regulations.

"Commercial Vehicle" means any type of self-propelled or towed Vehicle (i) used for transport of goods or passengers for compensation of any kind, or for transport of hazardous materials as defined by Applicable Law, or (ii) which has commercial signage, graphics, designs, artwork or other displays on or attached to the exterior of the Vehicle or which is visible from the exterior of the Vehicle, whether temporary or permanent. Commercial Vehicles include without limitation semi-trucks or trailers, snap-on tool and similar step vans, limousine, taxi and similar transport Vehicles and such other Commercial Vehicles as may be specified by applicable Rules and Regulations. The foregoing does not prohibit temporary travel or parking of Commercial Vehicles within the Subdivision as hereafter provided.

"Occupant Vehicle" means Vehicles as to each Lot which are permitted within the Subdivision as provided by this **Section 7.03** and which are owned and/or operated by (i) any single family member or other occupant residing at the Lot, and any housekeeper and any other domestic servants as to each single family residence, regardless of the duration the Vehicle is parked, stored, operated or kept within the Subdivision, and (ii) any other person visiting or staying at the Lot or who otherwise parks, stores, operates or keeps any Vehicle within the Subdivision at any time during and for any duration of time during a day (y) on any three days or more in any calendar week, or (z) on any five days or more in any calendar month or in any consecutive 30-day.

"Oversized Vehicle" means (i) as to each Lot, any Occupant Vehicle which cannot be parked wholly within the garage or driveway on the Lot at which the Owner of the Occupant Vehicle resides, (ii) as to guest parking, any Vehicle which cannot be parked wholly within an available guest parking space or at the Lot the guest is visiting as provided in subsection (i), or (iii) any Vehicle which due to size cannot otherwise be parked within the Subdivision or a Lot in full compliance with this Section 7.03. Subject to the foregoing which applies in the event of any conflict, Oversized Vehicles include any truck larger than a three-quarter ton pick-up truck, any Vehicle which exceeds in size six feet six inches (6'6") in height, seven feet six inches (7'6") in width, and/or twenty-one feet (21') in length and such other Vehicles as specified by applicable Rules and Regulations.

"Unused Vehicle" means any Vehicle which remains in the same general location on a street, or in a driveway within the Subdivision, for seven or more consecutive days or seven or more days in any fourteen-day period, or as otherwise determined by the Board or applicable Rules and Regulations.

"Unightly Vehicle" means any Vehicle as reasonably determined by the Board (i) with exterior signage, graphics, designs, artwork or other displays which are not professionally applied, or which are vulgar, obscene, gaudy, or otherwise offensive to persons of ordinary sensibilities, or (ii) which due to damage, disrepair or dilapidation is offense in appearance to persons of ordinary sensibilities.

7.03.2 Prohibited Vehicles; Covers Prohibited. The following Vehicles may not be parked, stored or kept at any time at any location within the Subdivision, including without limitation upon any street, or upon any part of any Lot, unless such Vehicle is stored completely within a garage: (i) boat, sailboat or other similar watercraft; (ii) boat or truck rigging; (iii) truck larger than a three-quarter ton pick-up; (iv) mobile home, trailer, recreational vehicle or bus; (v) Commercial Vehicle; (vi) Unused Vehicle or Inoperable Vehicle of any kind, (vii) Oversized Vehicle; (viii) any Unightly Vehicle; and (ix) any Vehicle (including without limitation any motor bikes, motorcycles, motor scooters, go-carts, golf-carts or other similar vehicles) which by reason of noise, fumes emitted, or by reason of manner of use or operation constitute an annoyance or nuisance, as may be determined in the sole and absolute discretion of the Board. Use of Vehicle covers of any kind (except for Vehicles parked completely in a garage) is prohibited.

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

7.03.4 Parking - Occupant Vehicles.

(a) NO LOTS WITHIN THE SUBDIVISION WILL HAVE A PRIVATE DRIVEWAY OF SUFFICIENT SIZE TO PERMIT PARKING THEREIN OF ANY OCCUPANT VEHICLES. ACCORDINGLY (i) PARKING OF ANY OCCUPANT VEHICLE IS PROHIBITED ON ANY SUCH PRIVATE DRIVEWAY, AND (ii) PARKING AS TO THE LOT IS RESTRICTED TO

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THE GARAGE ONLY.

(b) IF AND ONLY DURING SUCH TIME AS TWO OCCUPANT VEHICLES ARE FIRST PARKED IN THE GARAGE AS PROVIDED IN SUBSECTION (a), THEN ONE (AND ONLY ONE) ADDITIONAL OCCUPANT VEHICLE MAY BE PARKED ALONG THE CURB OR SIDE EDGE OF THE SHARED DRIVE IN FRONT OF AND WHICH ABUTTS THE APPLICABLE LOT. SUCH PARKING ON A SHARED DRIVE IS SUBJECT TO APPLICABLE LAW AND TO POSTED RULES AND ANY OTHER DESIGNATIONS (SUCH AS FIRE LANES) WHICH MAY OTHERWISE LIMIT, RESTRICT OR PROHIBIT ANY SUCH PARKING.

(c) FOR PURPOSES OF SUBSECTIONS (b) ABOVE, "OCCUPANT VEHICLE" INCLUDES ONLY FOUR-WHEEL VEHICLES DESIGNED FOR PASSENGER TRANSPORTATION, FAMILY VANS AND SUV'S AND PICK-UP TRUCKS AS OTHERWISE PERMITTED BY THIS SECTION 7.03. MOTORCYCLES, MOTOR SCOOTERS, RECREATIONAL VEHICLES, TRAILERS AND ANY OTHER PERMITTED VEHICLES MAY NOT BE PARKED UPON ANY SHARED DRIVE AND MAY NOT BE COUNTED IN DETERMINING COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION (b).

(d) EXCEPT AS PROVIDED IN SUBSECTIONS (b) AND (c) ABOVE AND EXCEPT FOR TEMPORARY PARKING AS HEREAFTER PERMITTED, NO OCCUPANT VEHICLE OF ANY KIND MAY BE PARKED OR STORED AT ANY TIME AT ANY LOCATION UPON ANY SHARED DRIVE. ACCORDINGLY, ANY OCCUPANT VEHICLE WHICH IS NOT PARKED, KEPT OR STORED AS ABOVE PERMITTED MUST BE PARKED OR STORED OUTSIDE OF THE SUBDIVISION.

(e) PARKING OF OCCUPANT VEHICLES UPON AREA PUBLIC STREETS LOCATED OUTSIDE OF THE SUBDIVISION IS PERMITTED, SUBJECT TO THE RIGHT OF APPLICABLE GOVERNMENTAL AUTHORIZES TO RESTRICT OR PROHIBIT THE SAME AT ANY TIME AND FROM TIME TO TIME. IN ADDITION, THE BOARD BY ADOPTION OF APPLICABLE RULES AND REGULATIONS MAY LIMIT, RESTRICT OR PROHIBIT PARKING BY OCCUPANT VEHICLES UPON ANY STREET WHICH ABUTS ANY PART OF THE SUBDIVISION.

7.03.5 Guest Parking.

(a) Declarant anticipates (but does not warrant or guarantee) that guest parking spaces will be provided within the Subdivision within Restricted Reserves "B", "C", "E" through "I", "K" and "L" as so designated on the Initial Plat. However, neither Declarant nor the Association have any obligation whatsoever to provide for any guest parking areas at any time. Accordingly, no guest parking areas may be available for guest parking within the Subdivision, and guest parking upon any area street located outside of the Subdivision may also be restricted or prohibited.

(b) Guest parking is restricted to a guest parking area as provided in subsection (c) below, or to the same areas as permitted for parking of Occupant Vehicles as to the Lot the guest is visiting.

(c) If and to the extent any guest parking is provided, and unless otherwise provided by applicable Rules and Regulations (i) Occupant Vehicles may not be parked in any guest parking area at any time, (ii) guest parking is available only on a first-come, first-serve basis, and (iii) no guest Vehicle may remain parked in any guest parking area at any time

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

7.03.6 Parking at Association Facilities. Parking at facilities owned or operated by the Association, if any, is not permitted unless specifically permitted by applicable Rules and Regulations, including Posted Rules. If permitted such parking is permitted only by Association personnel as to the facility or by Members and their permitted guests. Such parking is permitted only during the normal business hours of the applicable facility, or in accordance with applicable hours as provided in Posted Rules at the facility, and only during such time as the facility is in fact being used for its intended purposes by the person(s) parking at the facility. Such parking is also subject to all other applicable Rules and Regulations, including all Posted Rules.

7.03.7 Temporary Parking.

(a) "Temporary parking" means parking only for so long a period as is reasonably necessary to complete loading, unloading, pick-up or delivery, with such activity commenced promptly after the Vehicle is parked and completed promptly thereafter, and only during such period as is reasonably required with the exercise of due diligence to commence and complete maintenance, repair or reconstruction. Any parking more than twenty consecutive minutes or more than a total of one hour in any day is presumed not to be temporary.

(b) Temporary parking upon a Shared Drive is permitted (i) by Occupant Vehicles, guests and invitees, and by pick-up or delivery services, but solely for purposes of loading and unloading of passengers and cargo, and (ii) by other Vehicles in connection with and only during the conducting of work as to the maintenance, repair or reconstruction of a residence or other Improvement. Any such temporary parking is subject to applicable provisions of this Section 7.03 not inconsistent with this subsection, to such Rules and Regulations as from time to time promulgated by the Board and to Applicable Law (such as prohibitions against parking in fire lanes, or in such manner as to block entry to or exit from the Subdivision or any Lots).

(c) Pick-up or deliveries (such as moving in or out of a residence) or maintenance, repair or reconstruction requiring longer than thirty consecutive minutes or one hour in any day must be coordinated with the Board and/or the Managing Agent, must be conducted in such manner as to minimize interference with traffic and pedestrian ingress, egress or travel, must otherwise be conducted in accordance with directives of the Board and/or Managing Agent and applicable Rules and Regulations. IF ANY TEMPORARY PARKING IMPEDES OR IMPAIRS INGRESS, EGRESS OR REGRESS AS TO ANY LOT OR THE SUBDIVISION, A CONTACT PERSON MUST BE AVAILABLE DURING THE ENTIRE TEMPORARY PARKING PERIOD FOR PURPOSE OF PROMPTLY MOVING THE VEHICLE, EITHER IN PERSON AT THE VEHICLE OR VIA A MOBILE TELEPHONE NUMBER WHICH IS SECURELY FIXED TO AND CONSPICUOUSLY DISPLAYED ON THE DRIVER'S SIDE WINDOW OF THE VEHICLE.

(d) The Board may restrict or prohibit entry in to the Subdivision by very large and/or heavy Vehicles which may cause damage to Shared Drives, Community Properties or other property within the Subdivision. In all events each Owner and their tenant, as applicable, is liable for all damages caused to any Shared Drives, Community Properties or other property within the Subdivision by entry in to or parking of any Vehicle in the Subdivision at the request of or on behalf of such Owner or tenant.

7.03.8 Street Use and Parking; No Obstructions.

(a) All Shared Drives within and all streets within the vicinity of the Subdivision, whether public or private, are restricted to use for vehicular ingress, egress and regress, parking of Vehicles to the extent (and only to the extent) otherwise permitted by this Declaration, and incidental pedestrian ingress, egress and regress. No object, thing or device may be placed, stored, or maintained within or upon any Shared Drive or street, and no activities are permitted thereon which would impede or impair the aforesaid intended uses. Without limitation of the foregoing, no Shared Drive or street may be used as a play area or for any other recreational use, no toys, barbeque or other cooking equipment, or any recreational equipment may be placed, maintained or stored within or upon any Shared Drive or street, and no persons are permitted to play, loiter, congregate, or roam about within or upon any Shared Drive or street. ALL OWNERS AND TENANTS, AND THEIR RELATED PARTIES, ASSUME SOLE RESPONSIBILITY FOR ALL CONSEQUENCES OF ANY VIOLATIONS OF THE FOREGOING, INCLUDING AS TO ALL DAMAGES FOR PERSONAL INJURY OR OTHERWISE, AND MUST INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES AS TO ANY AND ALL SUCH CONSEQUENCES.

(b) WHEN PARKING OF OCCUPANT OR GUEST VEHICLES IS ALLOWED ON ANY SHARED DRIVE OR STREET AS HEREINABOVE PROVIDED, THE VEHICLES MUST BE PARKED ALONG THE CURB OR SIDE EDGE OF THE SHARED DRIVE OR STREET IN FRONT OF AND WHICH ABUTTS THE LOT AT WHICH THE OPERATOR OF THE OCCUPANT VEHICLE RESIDES OR WHICH THE GUEST IS VISITING, OR AS CLOSE THERETO AS CIRCUMSTANCES PERMIT. SUCH PARKING ON A SHARED DRIVE OR STREET IS SUBJECT TO APPLICABLE LAW AND TO POSTED RULES AND ANY OTHER DESIGNATIONS (SUCH AS FIRE LANES) WHICH MAY OTHERWISE LIMIT, RESTRICT OR PROHIBIT ANY SUCH PARKING.

7.03.9 Repair, Rental or Sale of Vehicles Prohibited. No repair or other work of any kind may be performed at any time on any Vehicle within the Subdivision. The foregoing prohibition includes any such activities on any Shared Drives, any streets within the vicinity of the Subdivision, each Lot and the private driveway on each Lot and all Community Properties. The foregoing prohibition does not include temporary emergency repairs or other work required in order to promptly remove an Inoperable Vehicle or disabled Vehicle from the Subdivision or a street in the vicinity of the Subdivision, or to and completely within a garage. Repair work on any Vehicle within a garage is limited to occasional minor repairs on Occupant Vehicles (such as oil changes, headlight bulb replacements and similar minor repairs). Extensive or frequent work (such as in connection with an auto repair or racing hobby or profession) on any Vehicle, including any Occupant Vehicle, is prohibited. Without limitation of the foregoing, no Vehicle repair or mechanic's shop of any kind, and no Vehicle rental or sales business or activities of any kind, whether or not for profit, may be conducted at any time at any location upon any Lot or at any other location within the Subdivision.

7.03.10 Towing; Other Remedies. The Board or its designated representative may cause any Vehicle which is parked, stored or maintained in violation of the Governing Documents or Applicable Law to be booted or removed from the Subdivision to any vehicle storage facility within the County in which the Subdivision is located, or within 100 miles of any part of the Subdivision regardless of County. Any such booting or removal will be at the sole cost and expense of the Person owning such Vehicle (whether or not such Person is an Owner or tenant), and/or the Owner and/or tenant as to whom such Person is a visitor, guest, invitee or other Related Party. Any such booting or removal may be in accordance with any applicable statute or ordinance, including Chapter 2308 of the Texas Occupations Code, as amended (the

"Texas Towing/Booting Statute"). The Association may contract with a towing company and/or boot operator which is licensed, bonded and insured as required by the Texas Towing/Booting Statute (a "Designated Towing Company") to provide requisite signage and other notices, and for the booting and/or towing of Vehicles parked or otherwise kept or stored in violation of the Governing Documents. All rights and remedies as aforesaid are cumulative of any other rights or remedies of the Association or its Related Parties.

7.03.11 Development Period. All Development Personnel are exempted from the provisions of this **Section 7.03**. Declarant is also authorized to regulate traffic and parking to the fullest extent deemed necessary or appropriate by Declarant for the conducting of any and all Development Activities, including as provided in Exhibit "B" to this Declaration.

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

7.03.13 Other Regulations: Variances.

(a) Posted Rules Control. POSTED RULES (AS DEFINED IN ARTICLE II) CONTROL IN THE EVENT OF ANY CONFLICT WITH THIS **SECTION 7.03** OR ANY OTHER GOVERNING DOCUMENTS. ALL OWNERS, TENANTS AND THEIR RELATED PARTIES AND ALL OTHER PERSONS ENTERING OR OCCUPYING THE SUBDIVISION MUST FULLY COMPLY WITH ALL POSTED RULES.

(b) Other Rules and Regulations. The Board may (but has no obligation to) adopt Rules and Regulations pertaining to this **Section 7.03**, including establishment and enforcement of fines as to and/or procedures for the removal of any Vehicle or any other item, thing or device which is kept, operated, stored or parked in violation of any such Rules and Regulations or other Governing Documents.

(c) Variances. The Board may (but has no obligation to) grant variances regarding parking or other provisions of this **Section 7.03** in individual cases to accommodate unusual circumstances or to alleviate undue hardship. Any variance may be limited in duration or otherwise as determined by the Board. In all events any such variance will terminate immediately at such time and to the extent the unusual circumstances or hardships are or with reasonable diligence could be alleviated.

7.03.14 LIMITATION OF LIABILITY. DECLARANT, THE ASSOCIATION, THEIR RELATED PARTIES, AND ANY "DESIGNATED TOWING COMPANY" (AS ABOVE DEFINED) AND ANY OTHER AUTHORIZED PERSON WHO EXERCISE ANY RIGHTS OR REMEDIES REGARDING ANY VEHICLE AS HEREIN PROVIDED (THE "INDEMNITEES") HAVE NO LIABILITY WHATSOEVER IN CONSEQUENCE THEREOF. THE PERSON OWNING EACH AFFECTED VEHICLE (INCLUDING AS TO ANY TOWED VEHICLE), WHETHER OR NOT SUCH PERSON IS AN OWNER, AND THE OWNER AND OWNER'S TENANT AS TO WHOM SUCH PERSON IS A VISITOR, GUEST, INVITEE, OR OTHER RELATED PARTY, MUST INDEMNIFY, DEFEND AND HOLD ALL SUCH INDEMNITEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LIABILITIES OR DAMAGES ARISING, DIRECTLY OR INDIRECTLY, AS A RESULT OF THE EXERCISE OF ANY SUCH RIGHTS OR REMEDIES. THE PROVISIONS HEREOF ARE CUMULATIVE.

SECTION 7.04 Nuisance; Unsightly or Unkempt Conditions.

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

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

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

7.04.4 Sound Devices; Excessive Noise. No exterior speaker or other exterior audio or video device, and no horn, whistle, bell or other sound device may be located, placed, operated or used upon any Lot or improvement thereon except as expressly permitted by this Section and subject in all cases to strict compliance with applicable Rules and Regulations. All such devices may be installed, maintained, operated and used only in such manner as to not create or to constitute an annoyance or nuisance to other residents of ordinary sensibilities as may be determined by the Board.

7.04.5 Firearms and Fireworks Prohibited. The use of firearms in the Subdivision is strictly prohibited except as otherwise expressly allowed by law. The term "firearms" includes without limitation "B-B" guns, pellet guns, and small or large firearms of all types. Fireworks of any type are strictly prohibited upon any Lot or at other location within the Subdivision.

7.04.6 Disposal of Trash. No trash, rubbish, garbage, manure, debris or offensive material of any kind may be kept or allowed to remain on any Lot, nor may any Lot be used or maintained as a dumping ground for any such materials. No incinerator may be maintained on any portion of the Subdivision, and disposal of any materials by incineration within the Subdivision is strictly prohibited. All trash and similar matter to be disposed of must be placed in cans or similar receptacles with tight fitting lids, or in plastic bags which are tied or otherwise tightly secured. All trash receptacles must be kept in a clean and sanitary condition and must comply with all Applicable Law. All trash receptacles must be adequately screened from public view or within a garage except when placed for regular pickup as herein provided. All trash and other prohibited matter must be removed from each Lot at regular intervals, including by the Owner if not removed or removable by a regular trash collection service. Trash and garbage for pickup by a regular service must be placed in such area or areas as the Board may from time to time direct, or as the applicable service may require; provided that trash and trash receptacles may not be placed for pickup earlier than eight hours prior to a scheduled pickup day, and all receptacles therefor and any remaining trash must be removed from the pickup site by midnight of the pickup day. Any of the foregoing provisions may be amended by applicable Rules and Regulations.

7.04.7 Outdoor Cooking; Fire Pits. Outdoor cooking is permitted on each Lot, but only in the back-yard area of each Lot. Outdoor cooking is permitted only in equipment especially constructed for the same, only in strict compliance with all Applicable Law, including fire codes, and only in such manner as not to create any health or safety hazards of any kind to persons or property. The use of outdoor cooking equipment within a garage, residence or other outbuilding is prohibited. All outdoor cooking equipment must be properly maintained and must be stored in an area screened from public view when not in use. Use of "turkey fryers" or any similar outdoor cooking equipment which incorporates use of heated water, oil or other liquids for cooking is prohibited. All outdoor cooking equipment must be equipped with a lid or cover and must otherwise be enclosed such that there are no open flames at any time when the equipment is unattended. Open fire pits and fireplaces are not permitted unless approve by the Architectural Reviewer, and in such case the fire pit or fireplace may be located only in the back- yard area of a Lot

7.04.8 Responsibility of Owners, Indemnity and Release. It is the responsibility of the Owner, Owner's tenants and any other occupant of each Lot, and not of Declarant, the Association or any of their Related Parties, to prevent the development of any unhealthy, unsafe, unclean, unsightly or unkempt condition on their Lot. Each Owner, each Owner's tenant and their Related Parties are liable for all consequences of any failure to fully comply with this Section 7.04, and must indemnify, defend and hold harmless any other Owners, Owner tenants, Declarant, the Association and their Related Parties as to any and all damages regarding any violations of this Section 7.04. The provisions of this Section 7.04.8 are cumulative.

SECTION 7.05 Garage, Estate and Similar Sales. The advertising for, conducting of and any other matters incident to the barter, sale or exchange of any new or used personal or other property upon any Lot, or upon or within any residence, garage or other improvement thereon, or at any other place or location within the Subdivision, is strictly prohibited unless sponsored by the Association, or unless authorized in advance in writing by the Board or pursuant to applicable Rules and Regulations. The foregoing includes without limitation any garage sale, yard sale, rummage sale, moving sale, attic sale, estate sale, or any similar type of sale (a "garage/estate sale"). Any written authorization for a garage/estate sale or applicable Rules and Regulations may specify requirements, conditions and limitations regarding any garage/estate sale in general, or specific garage/estate sales in particular.

SECTION 7.06 Timesharing Prohibited. No Lot may be made subject to any type of timesharing, fraction-sharing or a similar program whereby the right to exclusive use of the Lot or the single family residence thereon rotates among members of the program on a fixed, floating or other time schedule.

SECTION 7.07 Leases.

7.07.1 Definition; Restrictions; Certain Limitations.

(a) As used herein (or Governing Documents, as applicable), "lease," "leasing" or equivalent means occupancy of any part of a Lot or the residence thereon by any Person other than an Owner (including the Owner's single family members), with the Owner's consent, express or implied, or for which the Owner or any Related Party of the Owner receives any consideration or benefit, including without limitation, any fee, service, gratuity or emolument, regardless of whether or not such occupancy is pursuant to a written lease. "Lessee" includes any occupant as aforesaid pursuant to a lease.

(b) No Lot may be leased other than for use as a single family residence as herein provided and defined. No Owner may lease a Lot and attendant use of the residence and Improvements thereon for transient or hotel purposes. **NO LEASE MAY BE FOR AN INITIAL TERM OF LESS THAN SIX MONTHS.** No Owner may lease less than an entire Lot and attendant use of the residence and Improvements thereon. All leases must be in writing. All occupants pursuant to a lease (whether or not in writing) are specifically subject in all respects to all provisions of the Governing Documents (whether or not expressly stated in a lease). Any failure by lessee or other occupant to comply with the Governing Documents will be a default under the lease.

(c) The Association may not adopt or enforce any provisions pursuant to the Governing Documents that (i) requires a lease or rental applicant or lessee to be submitted to or approved for tenancy by the Association, or (ii) requires submission to the Association of a consumer credit report, or a lease or rental application. The Association may by adoption of applicable Rules and Regulations require submission to the Association of any lease covering any Lot, but in such case any of the following may be redacted or otherwise made unreadable or indecipherable before submission: (w) social security number; (x) driver's license number; (y) government-issued identification number; or (z) account, credit card or debit card number.

7.07.2 Default. In the event of default under any lease due to violation of the Governing Documents, the Board may (but has no obligation to) initiate any proceedings, actions or litigation under the lease to enforce compliance or to terminate the lease and/or for eviction. For such purposes each Owner irrevocably appoints the Board or its designated representative as their attorney-in-fact, agrees to indemnify, defend and hold harmless the Association and its Related Parties and agrees to be solely responsible for all costs thereof. **NO PROCEEDINGS, ACTION OR LITIGATION UNDER THIS SECTION OR ANY OTHER PROVISIONS OF THE GOVERNING DOCUMENTS MAY EVER BE CONSTRUED AS AN ASSUMPTION BY THE ASSOCIATION OR ITS RELATED PARTIES OF ANY OBLIGATION WHATSOEVER UNDER ANY LEASE OR REGARDING ANY LEASEHOLD INTEREST, INCLUDING WITHOUT LIMITATION ANY OBLIGATION REGARDING SECURITY DEPOSITS, MAINTENANCE AND ANY OTHER OBLIGATIONS PURSUANT TO TITLE 8 OF THE TEXAS PROPERTY CODE, ALL SUCH OBLIGATIONS BEING HEREBY EXPRESSLY DISCLAIMED.**

7.07.3 Joint and Several Liabilities. Lessor(s) and lessee(s) are jointly and severally liable for the observance and performance of all of the terms and provisions of the Governing Documents. The foregoing includes without limitation joint and several liability for all damages, fines, costs, expenses and any other applicable assessments resulting from any violation and with respect to all other rights and remedies regarding enforcement of the Governing Documents.

7.07.4 Surrender of Use of Community Properties by Lessor(s). During all periods of time during which a Lot is occupied by lessee(s), lessor(s) automatically surrender all of lessors' rights as an Owner to the use of all of the Community Properties unto such lessee(s), including without limitation all rights of use of recreational facilities, if any. The provisions of this Section do not impair the voting rights of the lessor(s), ingress, egress or regress rights of any lessor, any right to inspect the leased premises or the exercise of any other rights or remedies customarily reserved for the protection of a lessor.

SECTION 7.08 Garage Usage. No portion of any garage may be diverted to any use other than the parking of Vehicles and other generally accepted and customary usage of a garage. In particular but not in limitation of the foregoing, no portion of any garage may be used as a residence or a game room, or for any similar use as living quarters.

SECTION 7.09 Children and Other Dependents. All Owners and tenants must insure that their children and other dependents and the children and other dependents of any of their Related Parties are always properly supervised and may not permit such children or other dependents to engage in any activity or conduct in violation of the Governing Documents. Owners and tenants are liable for all consequences of any lack of supervision or violations.

SECTION 7.10 Unoccupied Property. The Owner of a Lot with an unoccupied residence, including any mortgagee in possession and any mortgagee obtaining title to a Lot by foreclosure or by any deed or other arrangement in lieu of foreclosure, is liable for full observance and performance of all terms and conditions of the Governing Documents, including in particular but without limitation: (i) proper maintenance of the Lot and all Improvements thereon; (ii) securing of the unoccupied residence, including fastening of windows and locking of all entry and garage doors, and maintenance of appropriate curtains or other permitted window covers in order to prevent unauthorized entry or use; and (iii) such other maintenance as required to avoid an appearance of abandonment or other unsightly or unkempt appearance.

SECTION 7.11 Mineral Production. No drilling, development operations, refining, quarrying or mining operations of any kind is permitted upon any Lot. No oil well, tank, tunnel, mineral excavation or shaft is permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas is permitted upon any Lot.

SECTION 7.12 Rules and Regulations. Declarant or the Board may at any time adopt and amend reasonable Rules and Regulations. Rules and Regulations may not be enacted retroactively, provided that if any existing use, condition or activity is subsequently covered by Rules and Regulations and such use, condition or activity ceases at any time and for any duration of time after enactment of the Rules and Regulations covering the same, then the Rules and Regulations will apply to the use, condition or activity thereafter. Except for Post Rules, Rules and Regulations will not become effective until Filed of Record, or such later date as stated therein. Except for Post Rules, notice of adoption or amendment of Rules and Regulations must be given to all Owners within a reasonable time after Filing of Record of the same (certification

by the Association that proper notice was given in accordance with this Section to be conclusive absent proof of fraud).

ARTICLE VIII
ARCHITECTURAL RESTRICTIONS

SECTION 8.01 Type of Residence.

8.01.1 Single Family Residence. No more than one single family residence may be constructed, placed or permitted to remain on each Lot. No permitted residence may exceed three stories in height, exclusive of chimneys and of roof vents and similar roof extrusions. Without limitation of the foregoing, the term "single family residence" prohibits duplex houses, garage apartments, apartment houses, and any other multi-family dwelling.

8.01.2 Garages and Garage Doors.

(a) General. All single family residences must have an enclosed attached or detached garage for parking of not less than two or more than three cars. Each such garage must contain a minimum of three hundred fifty (350) square feet of interior floor space. The garage must be architecturally similar and compatible to the appurtenant residence, including as to the roof line and appearance. Except for porte-cocheres if and as approved by the Architectural Reviewer, carports on Lots are prohibited. All garages must be enclosed with permanent walls and their fronts enclosed with standard type overhead doors customarily used in the building industry which garage doors must be maintained in good working order at all times. ANY REPLACEMENT GARAGE DOOR MUST BE OF EQUAL OR BETTER QUALITY AND SUBSTANTIALLY THE SAME DESIGN AS THE GARAGE DOOR FOR THE GARAGE AS ORIGINALLY CONSTRUCTED, AND MUST BE PAINTED TO MATCH THE COLOR SCHEME OF THE RESIDENCE AS ORIGINALLY CONSTRUCTED OR A SUBSEQUENT COLOR SCHEME WHICH HAS BEEN APPROVED IN WRITING BY THE ARCHITECTURAL REVIEWER. Except for interior modifications of a garage wholly consistent with its use as a garage and which do not alter the use or exterior appearance of the garage as originally constructed, no modification of the interior or exterior of any garage as originally constructed is permitted without prior written approval of the Architectural Reviewer. GARAGE DOORS MUST BE KEPT CLOSED AT ALL TIMES EXCEPT FOR ENTRY AND EXIT OF VEHICLES OR DURING BRIEF PERIODS WHEN THE GARAGE IS BEING ACTIVELY USED FOR CUSTOMARY PURPOSES.

(b) NOTICE OF SIZE LIMITATION; NO LIABILITY. GARAGES MAY NOT BE OF SUFFICIENT SIZE TO PERMIT PARKING THEREIN OF THE SAME NUMBER OF LARGE VEHICLES AS THE CUSTOMARY DESCRIPTION OF THE GARAGE. FOR EXAMPLE, A "TWO-CAR GARAGE" MAY NOT BE LARGE ENOUGH TO PERMIT PARKING THEREIN OF TWO LARGE SEDANS, TWO SUV'S OR TWO OTHER LARGE VEHICLES. SIZE LIMITATIONS ARE NOT A BASIS FOR NON-COMPLIANCE WITH APPLICABLE PROVISIONS OF THE GOVERNING DOCUMENTS (INCLUDING APPLICABLE RULES AND REGULATIONS) AND IS NOT A BASIS FOR ANY CLAIM WHATSOEVER AGAINST DECLARANT, THE ASSOCIATION OR THEIR RELATED PARTIES.

8.01.3 New Construction and Continued Maintenance Required. All residences, buildings and structures must be of new construction, and no residence, building or structure may be moved from another location to any Lot without prior written approval of the Architectural Reviewer. All residences, buildings and structures must be kept in good repair, must be painted

(as applicable) when necessary to preserve their attractiveness and must otherwise be maintained in such manner as to obtain and maintain Prevailing Community Standards.

8.01.4 Prohibited Homes and Structures. No tent, shack, mobile home, or other structure of a temporary nature may be placed or maintained upon any Lot or elsewhere in the Subdivision. Manufactured homes, industrialized homes, industrialized buildings and any other type of pre-fabricated residential structure, including any garage, which is constructed or assembled other than primarily on site are not permitted on any Lot. No residence, building or structure may be moved from another location to any Lot without prior written approval of the Architectural Reviewer. The foregoing prohibition does not apply to restrict the construction or installation of not more than one utility or similar outbuilding to be permanently located on a Lot, provided it receives the prior written approval of the Architectural Reviewer.

SECTION 8.02 Living Area Requirements. The living area (air-conditioned space) for each single family residence may not be less than 1,400 square feet. In addition, living area (air-conditioned space) for each single family residence may not be reduced by reconstruction or other modification in any manner to less than the square footage of the living area as originally constructed. Square footage of living area is to be measured to the outside of exterior walls (i.e., outside of brick, siding stone, or stucco); stairs and two-story spaces are counted only once. A/C returns, pipe chases, fireplaces and non-structural voids are excluded. Square footage of living area is exclusive of porches, servants' quarters, customary outbuildings and garages.

SECTION 8.03 Requirement for and Location of Residence. Each Lot within the Subdivision must have a substantially completed single family residence constructed on the Lot prior to commencement of the use of the Lot for residential purposes. No single family residence may be located upon any Lot except in accordance with building setback lines shown on any applicable Plat, and as established by this Declaration, applicable Architectural Guidelines or Applicable Law. Subject to the foregoing, no part of any residence, garage or other structure may be located nearer than three feet from any boundary line of any Lot; provided, however, Declarant and only Declarant may locate or approve location of one or more walls of a single family residence or garage on or within one foot of any side Lot line (a "Zero Lot Line"). Eaves, roof overhangs, steps, fireplaces, chimneys, bay windows, unroofed terraces and similar architectural details which are a part of a permitted residence or garage are not to be considered for the purposes of this Section.

SECTION 8.04 Construction Standards.

8.04.1 Applicability. Except as may be otherwise authorized in writing by the Architectural Reviewer and in addition to all other applicable requirements of the Governing Documents, initial construction of all single family residences and appurtenant structures must be in accordance with, and such residences and appurtenant structures must thereafter be maintained to the extent applicable in accordance with, the provisions of this Section 8.04.

8.04.2 Maximum Period for Completion of Construction. Upon commencement of construction of a single family residence, the work thereon must be prosecuted diligently to the end that the same will not remain in a partly finished condition any longer than reasonably necessary for completion thereof. In any event construction must be substantially completed within nine months after pouring of the slab for a single family residence. The foregoing period will be extended in the event of and only for the duration of delays due to strikes, war, acts of God or other good causes beyond the reasonable control of Declarant, an Authorized Builder or other applicable Owner, and for good cause may otherwise be extended by the Architectural Reviewer.

8.04.3 New Construction Materials Required. Only new construction materials (except for used brick if approved by the Architectural Reviewer) may be used.

8.04.4 Storage of Materials; Clean-Up. No building materials of any kind or character may be placed or stored upon any Lot more than thirty days before construction is commenced. Except as otherwise permitted by the Architectural Reviewer, all materials permitted to be placed on a Lot must be placed within the boundaries of the Lot. Upon completion of construction, any unused materials must be promptly removed from the Lot and the Subdivision and in any event not later than thirty days after construction is completed.

8.04.5 Drainage, Including Easements.

(a) Drainage Devices. Declarant is hereby specifically authorized to establish drainage patterns and to excavate as necessary for and to establish, construct and maintain drainage swales, erosion control systems and such other things and devices (herein referred to as "Drainage Devices") upon, over, across or under any part of the Subdivision, including any Lot, as Declarant deems appropriate to properly maintain and control water drainage and erosion. Declarant may also permit any Authorized Builder to establish, construct and maintain Drainage Devices as aforesaid. Declarant hereby reserves for itself, for any Authorized Builders to the extent so authorized by Declarant and for the Association blanket easements upon, over, under and across the Subdivision, including each Lot, for purposes of establishment, construction and maintenance of Drainage Devices as aforesaid (the "Drainage Easements"), provided that no Drainage Easement and no Drainage Device may be established, constructed or maintained in any manner as to encroach upon the foundation or any other part of any single family residence or its appurtenant garage. Any Drainage Devices which are expressly designated herein to be included within the Community Properties will be maintained by the Association. In addition, Declarant or the Board may designate any Drainage Devices as part of the Community Properties in which case the same will be maintained by the Association. Otherwise, all Drainage Devices must be maintained by the Owners as hereafter provided. THE FOREGOING DOES NOT OBLIGATE DECLARANT OR ANY AUTHORIZED BUILDER TO ESTABLISH, CONSTRUCT OR MAINTAIN ANY DRAINAGE DEVICES OF ANY TYPE OR KIND WHATSOEVER, AND ANY REPRESENTATION, WARRANTY OR IMPLICATION AS TO THE SAME IS HEREBY SPECIFICALLY DISCLAIMED.

(b) Encroachments. In the event of encroachment by any Drainage Device, including any overhead and overhanging encroachments and any encroachments which are completely underground, such as for example but without limitation any overhang by gutters or underground drainage lines for such gutters (including downspouts for the same), it is deemed that the Owner of the Lot encroached upon (or into) has granted a perpetual easement for the continuing maintenance and use of the encroaching Drainage Device, and for maintenance, repair or replacement thereof. The provisions hereof are subject to reasonable Rules and Regulations.

(c) Owner Obligations.

(1) Once established and for so long as continued maintenance thereof is reasonably necessary, all Drainage Devices must remain unobstructed. Except as otherwise expressly provided herein, all Drainage Devices, must be properly maintained by and at the sole cost of the Owner of each Lot to which the same pertains. When any Drainage Device serves more than one Lot, then maintenance and the costs thereof of the shared Drainage Device which serves the multiple Lots must be shared pro rate by all Owners to which the same pertains.

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(2) No construction, grading or any other work, act or activity is permitted upon any Lot which would obstruct, alter, divert, impede or impair the proper functioning of any Drainage Device. In addition, each Owner must perform such work, act or activities and install and maintain such Drainage Devices (i) as is reasonably necessary to prevent so far as practical drainage from the Owner's Lot to any other Lot (other than drainage along established swales and along drainage patterns as established by Declarant or the Architectural Reviewer), and (ii) as needed to maintain so far as practical positive drainage away from the foundation of the residence located upon the Owner's Lot.

(3) To obtain and maintain proper drainage, including as required by this Section and/or as changing circumstances may require, the Architectural Reviewer is hereby specifically authorized to require any Owner to construct, install and maintain such gutters and/or downspouts, drains, drainage lines and any other Drainage Devices, and/or to remove any obstruction, thing or device or cease any activity, either upon initial construction of any residence or other Improvement, or at any time thereafter that circumstances reasonably require.

(d) Specific Disclosure Requirements. ANY REQUEST FOR ARCHITECTURAL REVIEWER APPROVAL PURSUANT TO **ARTICLE IV** HEREOF WHICH WOULD ALTER OR EFFECT ANY THEN EXISTING DRAINAGE DEVICES OR DRAINAGE PATTERNS MUST SPECIFICALLY DISCLOSE, STATE AND DOCUMENT IN DETAIL WITH PROPER PLANS AND SPECIFICATIONS ALL SUCH ALTERATIONS AND EFFECTS AND MUST SPECIFICALLY AND EXPRESSLY REQUEST APPROVAL AS TO THE SAME. ABSENT FULL COMPLIANCE WITH THE FOREGOING, NO ARCHITECTURAL REVIEWER APPROVAL OR CONDITIONAL APPROVAL WILL APPLY BY IMPLICATION OR OTHERWISE TO ANY SUCH ALTERATION OR EFFECT.

8.04.6 Roof Materials. Roofs of all residences must be constructed so that the exposed material is composition type shingles, or such other material which is compatible in quality and appearance to the foregoing as may be approved by the Architectural Reviewer. All garage roofs, and roofs of any gazebo or outbuildings as may be approved by the Architectural Reviewer, must match the residence. Wood shingles of any type are prohibited on any residence, building or structure. "Energy Efficient Roofing" is permitted as provided in Texas Property Code, Section 202.011, subject to strict compliance therewith and with applicable policies of the Association regarding the same as provided in **Section 8.12.** Architectural metal roofs not to exceed 10% of the total roof area are allowed if and as otherwise approved by the Architectural Reviewer.

8.04.7 Recreational Equipment, Courts, Pools and Playscapes. No basketball goals or backboards may be mounted on a garage or on a pole, or otherwise erected or maintained upon any Lot, without the prior written approval of the Architectural Reviewer. Above-ground pools of every kind are prohibited upon any Lot except for a small toddler type pool with a water depth not to exceed twelve inches (12"). In-ground pools may not be installed except with the prior written approval of the Architectural Reviewer. In-ground pools must be constructed of granite or other materials as approved by the Architectural Reviewer. No swimming pool, pond, fountain or other water feature is permitted to adversely affect any Subdivision drainage or detention volume, or any Subdivision utilities. Outdoor decks and similar flatscape may not exceed a height of two feet (2') above grade. Any of the foregoing provisions may be amended by adoption of applicable Architectural Guidelines and/or Rules and Regulations.

8.04.8 Landscaping; Tree Maintenance and Removal.

(a) All initial landscaping installed on any Lot must be in accordance with plans and specifications approved by Declarant or by the Architectural Reviewer. Initial Lot landscaping must be completed no later than thirty days after the Initial Sale of the Lot except as otherwise approved by the Architectural Reviewer. All Lot landscaping must be maintained on a continuous basis as herein provided. New or additional landscaping, or changes to existing landscaping of a substantial nature, must be approved by the Architectural Reviewer. Each request for approval of landscaping must be submitted with a plot plan which shows the locations of all buildings and fences, and the location(s), size and species of all proposed landscaping.

(b) No living tree with a trunk diameter of six inches or greater may be cut down or removed from any Lot without the prior written approval of the Architectural Reviewer. Any such request for Architectural Reviewer approval must include any permit if and as required by Applicable Law. The foregoing does not apply as to any tree (i) within the footprint of a single family residence to be constructed on the Lot, or (ii) within five feet of the footprint of a single family residence to be constructed on the Lot, or such greater distance if and as may be required by Applicable Law. Where a tree overhangs a Shared Drive or street the tree must be trimmed and maintained such that at all times there is a clearance space (including as to any limbs or branches) under the tree that is not less than twelve feet (12') above the road surface of any Shared Drive or street and not less than eight feet (8') above the sidewalk surface, or in either case such greater distance if and as may be required by Applicable Law. Dead or damaged trees which may create a hazard to property or persons within the Subdivision must be promptly removed or repaired at the Owner's sole cost and expense. The Architectural Reviewer may require replacement of any tree which is removed or of any tree which is substantially damaged, as determined by the Architectural Reviewer and at the Owner's sole cost and expense.

8.04.9 Driveways. Each Lot must contain a private driveway or other means of ingress and egress for Vehicles from the garage to an abutting street or Shared Drive. All driveways must be constructed of concrete or concrete pavers, or as otherwise approved by the Architectural Reviewer. Driveways which cross any drainage ditch or other drainage device must be constructed to keep the drainage ditch or other drainage device clear of obstructions to operation and maintenance, and in accordance with applicable provisions of Section 8.04.5 regarding drainage and Applicable Law.

8.04.10 Exterior Materials. All exterior walls of each residence, including the garage, must be stone, stucco, brick or cementitious siding, as approved by the Architectural Reviewer. The exterior of any structure of any kind which incorporates exterior wooden or cementitious siding must receive at least two coats of paint at the time of construction unless the exterior is redwood, cedar or other material intended to have an exposed natural finish as approved by Declarant or by the Architectural Reviewer.

8.04.11 Mailboxes; Mailbox Banks. Mail service may be restricted to mailbox banks as to some or all of the Subdivision. To the extent mail service is so provided Owners must exclusively use their assigned mailbox and must strictly comply with all applicable rules and regulations of the Association and the United States Postal Service regarding the same. Otherwise, one mailbox must be maintained at all times upon each Lot, and the mailbox must be properly maintained at all times to accommodate regular reception of mail in accordance with applicable rules and regulations of the United States Postal Service and the Association. Installation and any subsequent modification of a mailbox and post or other housing for the same on each Lot must be approved by the Architectural Reviewer. All mailboxes, and the mounting

post or housing for the same, must be properly maintained at all times, including maintenance as needed to avoid any leaning or listing, periodic cleaning and painting, and, as needed, repair or replacement of damaged or deteriorated mailboxes, posts and/or housing.

8.04.12 Compliance with Laws. All construction of any single family residence must be in compliance with Applicable Law, including applicable building codes and permit or licensing requirements.

SECTION 8.05 Lot Resubdivision or Combination. No Lot as originally conveyed by Declarant to any other Person, including any builder, may be thereafter subdivided or combined with any other Lot, or the boundaries thereof otherwise changed. The foregoing does not preclude use of an "Adjacent Lot" for "residential purposes" if and only to the extent expressly permitted by and subject to strict compliance with all provisions of Section 209.015 of the Texas Property Code and applicable policies of the Association regarding the same as provided in **Section 8.12**.

SECTION 8.06 Fences and Walls.

8.06.1 Architectural Reviewer Approval Required. No fences or walls of any kind may be constructed, placed or maintained on any Lot or at any other location within the Subdivision without prior written approval of the Architectural Reviewer.

8.06.2 Community Fence Plan Controls. Declarant or the Board may adopt a "Community Fence Plan" for the construction and maintenance of all fencing within the Subdivision, provided that all fencing as located and as built by or at the direction of Declarant will control in the event of any discrepancies. In addition, in the event of any conflict between this Section and the Community Fence Plan, the Community Fence Plan will control. The Community Fence Plan may be amended at any time by adoption of applicable Architectural Guidelines. No such amendment may be applied retroactively, provided that any maintenance, modification, repair or replacement after any applicable amendment must be made in accordance with the amendment.

8.06.3 General Requirements – Lot Fencing. All fencing on any Lot ("Lot Fencing"), including any walls or hedge type fencing barriers, but excluding any Lot Fencing which is a part of the "Subdivision Fencing" as defined below, must comply with the following:

- (a) All Lot Fencing must be approved by the Architectural Reviewer.
- (b) Lot Fencing may not exceed six feet (6') in height. Fence height is to be measured from the highest point of grade along the applicable fence line.
- (c) All Lot Fencing (other than hedges) must be constructed of redwood or cedar vertical pickets with treated pine (or equivalent) post and supports, or black ornamental wrought iron or tubular steel, or brick or masonry, or combinations thereof, or composite materials which substantially simulate the appearance of the foregoing, as approved by the Architectural Reviewer.
- (d) PAINTING OR STAINING OF WOODEN FENCES IS PROHIBITED UNLESS APPROVED IN WRITING BY THE ARCHITECTURAL REVIEWER.
- (e) Unless included in the "Subdivision Fencing" as defined and provided below, all fencing which separates a Lot from any reserve or other Community Properties

is deemed to be Lot Fencing which must be maintained solely by the Owner of the Lot which is also served thereby.

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

(g) **No Lot Fencing may be erected or maintained at any locations in front of the front exterior corners of a residence or beyond the front building setback line of a Lot, provided that the Architectural Reviewer may approve within any such locations installation and maintenance of, and only of, open face metal Lot Fencing which is constructed of black ornamental wrought iron or tubular steel and which does not exceed four and one-half feet (4' 6") in height as measured from the highest point of grade along the applicable fence line.**

8.06.4 Ownership and Maintenance of Lot Fencing. All Lot Fencing must be continuously maintained in a structurally sound condition, in a neat and attractive condition, in good repair and otherwise as required to obtain and maintain Prevailing Community Standards. Except as next provides, all maintenance, repair or replacement of Lot Fencing which separates adjoining Lots, or which is otherwise shared in common by two or more adjoining Lots, is the joint responsibility of, and the costs thereof must be shared equally by, the adjoining Owners. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions apply to shared or common Lot Fencing. Except as aforesaid, all such maintenance, repair or replacement of Lot Fencing and payment of all costs thereof is the sole responsibility of the Owner upon whose Lot the Lot Fencing is located. Any dispute arising among any Owners regarding any matters pertaining to this Section, including any claim for contribution or damages due to negligence or willful acts or omissions, may be submitted to the Board for resolution in accordance with or the Board may require such submission in accordance with the dispute resolution procedures set forth in **Section 6.02.**

8.06.5 Subdivision Fencing.

(a) **"Subdivision Fencing"** means (i) all fences and freestanding fence type walls located along the perimeter boundaries of the Subdivision, (ii) all entry, exit and any other Subdivision signs or identification monuments, and any fences, walls and/or other landscaping or features which are an integral part thereof, (iii) all access limiting gates, including vehicular and pedestrian gates, and all associated controllers, operators and related devices and facilities ("**access limiting devices**"), (iv) all fences and fence type walls included within the Community Properties, and (v) all other fences and fence type walls as may be designated as Subdivision Fencing by Declarant or the Board.

(b) **Perimeter Subdivision Fencing may not exceed seven feet (7') in height and any other Subdivision Fencing may not exceed six feet (6') in height, as measured in either case from the highest point of grade along the applicable fence line.**

(c) **Subdivision Fencing may be constructed of the same materials as above permitted for Lot Fencing, or as otherwise determined by the Architectural Reviewer.**

(d) **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN APPLICABLE ARCHITECTURAL GUIDELINES, PAINTING OR STAINING OF WOODEN FENCES IS PROHIBITED.**

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(e) Unless specifically included in the Subdivision Fencing as above provided, all fencing which separates a Lot from any reserve or other Community Properties is deemed to be Lot Fencing which must be maintained solely by the Owner of the Lot which is also served thereby.

(f) All Subdivision Fencing is a part of the Community Properties and must be maintained as such. NO OWNER OR THEIR RELATED PARTIES, AND NO OTHER PERSON, MAY MODIFY, ALTER OR IN ANY MANNER CHANGE OR ATTACH ANYTHING TO ANY SUBDIVISION FENCING WITHOUT THE PRIOR WRITTEN CONSENT OF DECLARANT OR THE BOARD.

8.06.6 Fencing and Wall Easements.

(a) Declarant is specifically authorized to locate, establish, approve, construct and maintain any and all Lot Fencing and Subdivision Fencing upon, over, access and under any part of the Subdivision, including any Lot, as Declarant deems appropriate. Without limitation of any other applicable easements as herein provided, blanket easements are hereby reserved, granted and dedicated in favor of Declarant, the Association and their Related Parties upon, over, across and under the Subdivision, including each Lot, for purposes of construction, inspection, maintenance, repair, reconstruction or replacement of any Subdivision Fencing.

(b) THE ABOVE EASEMENTS INCLUDE WITHOUT LIMITATION EASEMENTS AS TO ALL AREAS OF ANY LOT, INCLUDING ANY PRIVATE DRIVEWAY THEREON, ALL AREAS OF ANY STREET OR SHARED DRIVE WITHIN THE SUBDIVISION, AND ALL AREAS OF ANY COMMUNITY PROPERTIES AFFECTED BY PLACEMENT OR OPERATION THEREIN OR THEREON OF ANY "ACCESS LIMITING DEVICES" AS ABOVE DEFINED. DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES HAVE NO LIABILITY WHATSOEVER BY REASON OF ANY LOSS OF USAGE OR ANY OTHER CONSEQUENCES RESULTING FROM ANY SUCH EASEMENTS AS TO ANY LOT OR OTHER AREAS AFFECTED THEREBY. IT IS THE RESPONSIBILITY OF EACH OWNER, SUCH OWNER'S TENANTS AND THEIR RELATED PARTIES TO KEEP ALL SUCH AREAS OPEN AND UNOBSTRUCTED, AND TO OTHERWISE PREVENT ANY INTERFERENCE WITH THE PROPER FUNCTIONING, OPERATION, MAINTENANCE, REPAIR OR REPLACEMENT OF ANY ACCESS LIMITING DEVICES. WITHOUT LIMITATION OF THE FOREGOING, PARKING (INCLUDING TEMPORARY PARKING) AS OTHERWISE HEREIN PERMITTED IS EXPRESSLY PROHIBITED WITHIN ANY AREA WHICH WOULD IMPEDE OR IMPAIR THE PROPER FUNCTIONING, OPERATION, MAINTENANCE, REPAIR OR REPLACEMENT OF ANY ACCESS LIMITING DEVICES.

SECTION 8.07 Antennas and Satellite Dish Systems.

8.07.1 General Rule. Except as otherwise expressly approved by the Architectural Reviewer in writing, or as otherwise expressly permitted by applicable Architectural Guidelines or by law, no antenna or satellite dish system of any kind is permitted upon any Lot, or the residence or other improvement thereon, except one dish antenna, one meter or less in diameter or diagonal measurement which is designed to receive direct broadcast satellite or to receive or transmit "fixed wireless signals" (as defined by the Federal Communications Commission), and one television antenna to the extent necessary for reception of local television broadcasts, either or both of which must be installed so as not to be visible from any street. Declarant or the Board may at any time adopt and amend Architectural Guidelines or policies

regarding any antenna or satellite dish system in accordance with this Declaration, subject to the aforesaid laws.

8.07.2 Prohibited Antenna. No antenna, "dish" or other device may ever be used for transmitting electronic signals of any kind except as to fixed wireless signal transmission as above provided. Antenna and similar devices of any type used for citizen band ("CB") radio, amateur ("HAM") radio, AM/FM radio, or Digital Audio Radio Service ("DARS"), are prohibited and may not be erected, placed or permitted to remain on any Lot, on any improvement located on any Lot, or elsewhere in the Subdivision. Without limitation as to the authority of the Architectural Reviewer to grant variances as provided in **Section 4.03**, the Architectural Reviewer is specifically authorized to (but is not in any event required to) grant variances as to prohibited antenna. The Architectural Reviewer may condition granting of any such variance upon placement of the applicable antenna in the attic of a residence

SECTION 8.08 Signs.

8.08.1 Definition; General Rules.

(a) As used in this Section, "sign" means and includes any billboards, posters, banners, pennants, displays, symbols, emblems, advertising structures or devices of any kind, and any other type of sign of any kind, including without limitation business, professional, promotional or institutional signs. "Sign" also means and includes flags of any kind, subject to applicable provisions of **Section 8.08.3**.

(b) Permitted signs must be professionally printed and prepared, and must be properly installed and maintained, to avoid unsightly appearance. The good faith determination of the Architectural Reviewer as to any of the foregoing is final.

(c) No Owner, Owner's tenant or their Related Parties, is permitted to place any sign on another Owner's Lot or upon any Community Properties.

(d) No sign of any kind is permitted on any Lot, or upon any residence, or within any residence if visible from the exterior of the residence or within the Subdivision except as may be approved in writing by the Architectural Reviewer, and except as otherwise expressly permitted in this Section.

(e) No sign may be placed on any Lot closer than five feet from any street or Shared Drive, or closer than any building setback line as to any side or back Lot line, or within any traffic sight line area as defined in **Section 8.09**.

(f) No sign may be illuminated.

8.08.2 Prohibited Signs. Foreclosure, bankruptcy and other distressed sale references are specifically prohibited. No sign is permitted which contains language, graphics or any display that is vulgar, obscene or otherwise offensive to the ordinary person. Signs disparaging, defaming or demeaning any Person, including Declarant, the Association, the Architectural Reviewer or their Related Parties, because of race, creed, gender, religion or national origin, regarding any Development Activities or for any other reason are specifically prohibited.

8.08.3 Permissible Signs. Signs as set forth in this **Section 8.08.3** are permissible to the extent and subject to strict compliance with all applicable provisions of this Section as follows:

(a) "For Sale" or "For Lease" Signs (Prohibited During Development Period). Subject to **Section 8.08.5** hereof "For Sale" or "For Lease" signs are permitted as follows: (i) not more than one sign is permitted upon a Lot; (ii) the sign may be displayed only by the Owner of and upon the applicable Owner's Lot, and not upon any other Lot or any other location within the Subdivision; (iii) the sign must be professionally prepared and printed, and must be provided by a professional real estate sales or leasing company unless otherwise approved by the Architectural Reviewer; (iv) the sign may not exceed six square feet in size, (v) the sign must be fastened only to a stake in the ground in the front yard area of the applicable Lot, and the top of the sign may not be higher than three feet (3') above ground level; (vi) the sign may not be illuminated; and (vii) the sign may be displayed only during such period of time that the applicable Lot is in fact for sale or for lease.

(b) Security/Monitoring Service Signs and Stickers. Security/monitoring service signs and stickers are permitted as follows: (i) no more than one security/monitoring sign is permitted at a located at or near each entry door to the residence; and no such sign may exceed 12"x12" in size; (ii) no more than one security/monitoring sticker is permitted on each entry door to the residence, no more than one security/monitoring sticker is permitted on one window on the front, each side and the back of the residence and no security/monitoring sticker may exceed 4"x4" in size; (iii) no security/monitoring signs or stickers may be illuminated, and (iv) only security/monitoring signs or stickers as printed, prepared and provided by a commercial security, monitoring or alarm company are permitted.

(c) Political Signs and Permitted Flags. "Political Signs" and certain federal and state flags as provided in Texas Property Code, Sections 202.009 and 202.012, respectively, are permitted, subject to strict compliance with the said statutes and with applicable policies of the Association regarding the same as provided in **Section 8.12**.

8.08.4 Other Signs and Regulations. Without limitation of any other applicable provisions hereof, the Architectural Reviewer is also hereby specifically authorized to adopt Architectural Guidelines in general and to approve in specific instances such other signs, and such other specifications and regulations regarding the same, as deemed necessary or appropriate and subject to such conditions as determined by the Architectural Reviewer.

8.08.5 Development Period. During the Development Period no signs of any kind may be placed, displayed or maintained upon any Lot, or upon any residence or other structure, or within any residence or other structure if visible from the exterior thereof, or at any other location upon or within the Subdivision unless prior written approval is obtained from Declarant. The foregoing applies without limitation to "For Sale" and "For Lease" signs of any kind but does not apply to security/monitoring signs or stickers, Political Signs or Permitted Flags as otherwise permitted by this Section. This Section also does not apply to any signs placed within the Subdivision by Declarant, or by an Authorized Builder as permitted by Declarant, including as to any signs as provided in Exhibit "B" to this Declaration regarding any Development Activities.

8.08.6 Default. Any sign of any kind placed or displayed within the Subdivision in violation of this Section may be removed at any time by or at the direction of Declarant, the Board or the Architectural Reviewer, and may be discarded as trash without liability for trespass, conversion or damages of any kind. In addition, the Board or the Architectural Reviewer may,

after notice and opportunity to be heard, assess as a specific assessment a fine for each day any sign is placed within the Subdivision in violation of this Section not to exceed seventy-five dollars (\$75.00) per day per sign, or as otherwise provided by applicable Architectural Guidelines and/or Rules and Regulations.

SECTION 8.09 Traffic Sight Line Areas. No fence, wall, hedge, tree, shrub planting or any other thing or device is permitted which obstructs sight lines as established by any Plat or Applicable Law, or at elevations between two and eight feet (2' & 8') above a street (i) on any corner Lot within the triangular area formed by the two boundary lines thereof abutting the corner streets, and a line connecting them at points twenty-five feet (25') from their intersection, or (ii) on any Lot within the triangular area formed by the boundary line abutting a street, the edge line of any driveway pavement and a line connecting them at points ten feet (10') from their intersection. Notwithstanding the foregoing, wrought-iron fencing which incorporates vertical bars spaced not less than four inches apart (measured from center to center of each bar) may be placed within either of the aforesaid sight-line areas. The foregoing also does not prohibit construction of any residence or garage at any location permitted by this Declaration, the Plat or Applicable Law even if the residence or garage encroaches upon either of the aforesaid sight line areas.

SECTION 8.10 Utilities; Lighting.

8.10.1 Maintenance of Utilities Required. All utility services intended to be provided to each single family residence as originally constructed, including without limitation water, sewage, electric and gas services, must be maintained by the Owner at all times when a residence is occupied.

8.10.2 Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Lot and which are not owned and maintained by a governmental entity or a utility provider must be installed underground unless otherwise approved in writing by Declarant or the Board. All such lines and facilities must always be maintained by the Owner of the Lot upon which the same is located.

8.10.3 Air Conditioners. No window, wall or exterior roof mounted type air conditioners or heating units, or any part thereof, and no air conditioners or heating units, or any part thereof, which is visible from any street is permitted. Notwithstanding the foregoing, Declarant may place or approve placement of air conditioner condensing units and related pads, wiring, conduits and devices (an "A/C Unit") such that the A/C Unit is visible from a street, provided that shrubbery must be maintained around the A/C Unit to minimize the visual impact of the A/C Unit as determined by Declarant or the Architectural Reviewer.

8.10.4 Exterior Lighting. Excepting customary Christmas lighting, any exterior lighting of a residence or Lot must be approved by the Architectural Reviewer in accordance with **Article IV**. No exterior lighting (including Christmas lighting) may be directed outside property lines of the Lot upon which same is located. All lighting fixtures (except Christmas lighting) must be compatible in style and design to the residence where located. Christmas lighting and related decorations and ornamentation may be displayed between November 15 and January 10, and the Architectural Reviewer may in particular instances or through Architectural Guidelines permit other holiday lighting, decorations and ornamentation (all of which for purposes of this Section are referred to as "**Christmas Lighting**"); provided, the Architectural Reviewer is authorized to fully regulate all Christmas Lighting in particular instances or by Architectural Guidelines to avoid any annoyance, nuisance, safety hazard or unsightly condition or appearance as determined in the sole opinion of the Architectural Reviewer.

SECTION 8.11 Septic Tanks; Irrigation. No septic tank, private water well or similar private sewage or water system is permitted upon any Lot. No sprinkler or irrigation systems of any type which draw upon water from creek, stream, river, lake, pond, canal or any other ground or surface water may be installed, constructed or operated upon any Lot or elsewhere in the Subdivision. Private irrigation wells are prohibited upon any Lot. Sprinkler and irrigation systems installed as to Community Properties will be maintained by the Association. No other sprinkler or irrigation system may be installed upon any Lot or elsewhere in the Subdivision unless approved by Declarant or by the Architectural Reviewer. The foregoing does not preclude use of a "Rainwater Harvesting System" if and only to the extent expressly permitted by and subject to strict compliance with all provisions of Section 202.007 of the Texas Property Code and applicable policies of the Association regarding the same as provided in Section 8.12.

SECTION 8.12 Protected Property Use Policies. Without limitation of any other provisions hereof regarding Architectural Guidelines or otherwise, Declarant or the Board may at any time adopt policies regarding protected property uses and devices pursuant to Chapters 202, 209 and other applicable provisions of the Texas Property Code, including with regard to energy efficient roofing, political signs, flags, rainwater harvesting systems, solar energy devices, compost sites, xeriscaping, and standby electric generators.

ARTICLE IX EASEMENTS

SECTION 9.01 Incorporation of Easements. All easements, dedications, limitations, restrictions and reservations shown on any Plat, and all validly existing grants and dedications of easements and related rights heretofore made or hereafter established as herein provided which affect the Subdivision or any Lots and which are Filed of Record, are incorporated herein by reference and made a part of this Declaration for all purposes, and are deemed to be incorporated in each and every contract, deed or conveyance executed or to be executed by any Person covering any portion of the Subdivision, including any Lot. In the event of any conflict between any of the foregoing filed after the date of filing of this Declaration and any provisions of this Declaration, the provisions of this Declaration control. The foregoing does not in any manner give effect to any instrument of record which would not otherwise be effective or other than in accordance with the instrument and Applicable Law.

SECTION 9.02 Easements for Encroachments and Overhangs. This Section 9.02 applies to any overhead encroachments and overhangs of walls, roofs or other part of any building or structure, to building steps, fireplaces, chimneys, bay windows and similar architectural details, to paving and driveway approaches and in-turns and to footings, piers (including the bell or any other part of bell piers), piles, grade beams and similar Improvements, and to any encroachments as to any portion of any roadway, walkway, parking area, driveway, water line (including irrigation line), sewer line and utility line ("Permitted Encroachment"). If any Permitted Encroachment originates during original construction or results at any time from settling or shifting on, into, under or above any adjoining Lot or on, into under or above the Community Properties by a distance of not more than thirty inches (30") from any point on the common Lot line, then it is deemed that the Owner of the Lot or the Community Properties encroached upon, into, under or above has granted a perpetual easement for continuing maintenance and use of such encroaching Improvements, and for maintenance, repair or replacement thereof if performed in substantial compliance with the original construction. A Permitted Encroachment also includes encroachments which are completely underground and applies in like manner to setback lines.

The term "**original construction**" as used in this Section means construction, placement or modification of Improvements which occur through the Initial Sale of a Lot.

SECTION 9.03 Maintenance Access Easements.

9.03.1 Applicability. The Maintenance Access Easement set forth in this **Section 9.03** applies to any Lot or Community Properties, or any part thereof, which is adjacent to another Lot or Community Properties, or any part thereof, upon which any "Accessing Property Improvement" is located. The property upon which any Accessing Property Improvement is located is referred to as the "**Accessing Property.**" The adjacent property to be accessed is referred to as the "**Access Easement Property.**" The area of land on the Access Easement Property to which the Maintenance Access Easement will apply is referred to as the "**Access Area.**" "**Accessing Property Improvement**" means any of the following improvements, any part of which is located on the Accessing Property within three feet of the Lot line or boundary line of the Access Easement Property: (i) any residence or garage and any approved boundary line fencing, (ii) any utilities or Community Properties as provided in **Section 9.05** regarding governmental functions, utilities and other services, and (iii) any other improvements constructed or placed within the Access Area as permitted by this Section.

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

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

9.03.4 Notice; Duration. Prior to use of the Access Area, the Owner or occupant of the Accessing Property must give written notice of intent to utilize the Access Area, stating therein the nature of intended use and the anticipated duration of such usage. The notice must be delivered to the Owner or occupant of Access Easement Property by regular or certified mail, or by personal delivery, or by attaching the notice to the front door of the residence located upon the Access Easement Property. If by mail, the notice must be given at least ten days prior to use of the Access Area; and if by personal delivery or by affixing to the front door, the notice must be given at least seven days prior to use of the Access Area. In the case of an Emergency the Owner or occupant of the Accessing Property may commence and continue usage of the Access Area without giving the foregoing notice for so long as is reasonably necessary to control the Emergency and complete work necessitated thereby but must proceed with giving of the required notice as soon as practical after commencement of usage.

9.03.5 Usage. THE ACCESS AREA MAY BE UTILIZED ONLY WHEN AND TO THE EXTENT THE APPLICABLE INSPECTION, CONSTRUCTION, MAINTENANCE, REPAIR OR REPLACEMENT CANNOT BE REASONABLY CONDUCTED WITHIN THE BOUNDARIES OF THE ACCESSING PROPERTY. USAGE OF THE ACCESS AREA IS ALSO LIMITED TO THE MINIMUM REASONABLE AMOUNT OF TIME AND AREA REQUIRED TO PERFORM AND COMPLETE THE APPLICABLE INSPECTION, CONSTRUCTION, MAINTENANCE, REPAIR OR REPLACEMENT. Work during the usage period must be conducted in such manner as to minimize so far as reasonably possible inconveniences and disruptions to the Access Easement Property and its occupants. Except in the case of an Emergency or unless otherwise authorized by the Owner or occupant of the Access Easement Property, and excluding any Development Activities, work during the usage period may not be conducted during legal holidays or any Sunday and must otherwise be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays.

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

9.03.7 Restoration. Promptly after completion of usage of an Access Area, the applicable Owner and occupant of the Accessing Property must thoroughly clean the Access Area and must repair and restore the same to substantially the same condition that existed at the time of commencement of usage. The foregoing includes repair or replacement of any property line fencing which is damaged or removed as a result of such usage. The foregoing does not include or apply to any building, structures or improvements which have been placed in the Access Area without written Architectural Reviewer approval. AT THE TIME OF RECEIPT OF NOTICE, THE OWNER OR OCCUPANT OF THE ACCESS EASEMENT PROPERTY MUST PROMPTLY NOTIFY THE OWNER OR OCCUPANT OF THE ACCESSING PROPERTY IN WRITING AS PROVIDED IN **SECTION 9.03.4** OF ANY STRUCTURES OR IMPROVEMENTS WITHIN THE ACCESS AREA WHICH HAVE BEEN APPROVED BY THE ARCHITECTURAL REVIEWER.

SECTION 9.04 Association Blanket Access Easement. The Association and its Related Parties (including the Architectural Reviewer) have a continuing non-exclusive easement upon, over, under and across each Lot, and as to the exterior of the residence and garage thereon, and as to the exterior and interior of any other improvement thereon, to the extent reasonably necessary for the performance of any of the functions or duties of the Association or its Related Parties, for the exercise of any of their rights under this Declaration. Prior to exercise of such easement rights written notice must be given to the Owner or occupant of the affected Lot stating the expected date of commencement of usage, the nature of the intended use and anticipated duration of such usage. The notice may be given by attaching the notice to the front door of the applicable residence, or in any other manner as permitted by **Section 10.05**. In the

case of an Emergency the right of entry and usage will be immediate without notice, but in such case notice as aforesaid must be given as reasonably soon as practicable. Promptly after completion of usage, the accessed area must be thoroughly cleaned, repaired and/or restored as needed to substantially restore the accessed area to at least the same condition that existed at the time of commencement of usage.

SECTION 9.05 Governmental Functions; Utilities and Other Services.

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

9.05.2 Utilities.

(a) **Easements as shown on any Plat or which is otherwise Filed of Record are reserved, together with reasonable working space and all necessary rights of access, ingress, egress and regress, for purposes of the installation, maintenance, operation, inspection, repair or replacement of utilities and/or drainage facilities. Within these easements, no structure, planting or other materials may be placed or permitted to remain which may damage or interfere with any of the aforesaid purposes. All such easement areas within each Lot and all Improvements therein or thereon must be maintained by the Owner of the Lot, except for improvements of a public or quasi-public authority or utility which are maintained by such authority or utility. The title to a Lot does not include title to any utility facilities located within any such easements. No public or quasi-public authority or utility is liable for any damage of any kind to any Improvements located within any such easements resulting from any use thereof for any of the aforesaid purposes, provided that the surface of any area used must be restored to substantially the same condition as existed before such usage and as otherwise required by Applicable Law.**

(b) **For any purpose as provided in subsection (a) above Declarant may establish or grant easements for and may otherwise authorize, locate, install and maintain any utilities within the Subdivision, including at any location upon, under or across any Lot or Community Properties. The foregoing includes street lighting, if any, water or storm sewer lines, drain inlets or basins, utility boxes, fire hydrants, meters, including master water meters, water meter banks, electrical meter banks, water vaults, manholes and covers, water quality facilities, including clear water manholes and cover, submeters, backflow valves and any other lines, pipes, conduits, cables, lines, equipment, devices or facilities related thereto. DECLARANT EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE TYPES OR LOCATIONS OF ANY UTILITIES.**

(c) **After the Development Period the Board may at any time extend any part of or all of the Drainage Easements (as defined and provided in **Section 8.04**) to permit**

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temporary or permanent usage of the same for any purpose as provided in subsections (a) or (b) above.

(d) Declarant, either during or after termination of the Development Period, or the Association at any time may, but are not required to, File of Record a formal easement or easements covering any of the utilities, facilities or other services as provided or permitted in subsections (a), (b) or (c).

9.05.3 Certain Subdivision Facilities.

(a) Declarant may place or approve placement within the Subdivision, including upon, under, over and across any Lot or Community Properties, (i) mail box banks, water banks, water vaults, master water meters, electrical banks and/or other utilities, facilities or services designed to serve two or more single family residences, and (ii) lines, wires, conduits, cables, pipes, manholes, hydrants and any other components, equipment, facilities or devices relating to any of the foregoing. Declarant or the Board may at any time place or approve placement within the Subdivision, including upon, under, over and across any Lot or Community Properties, Subdivision entry and/or other identification signs and/or monuments, and any components, equipment or devices related to the foregoing. **NOTHING IN THIS SECTION, INCLUDING THE FOREGOING, REQUIRES DECLARANT OR THE ASSOCIATION TO PROVIDE ANY SUCH FACILITIES.**

(b) Permanent easements are hereby resolved in favor of Declarant, the Association and their Related Parties for the purposes of the placement, construction, maintenance, repair and operation of any facilities as permitted by this Section, together with reasonable working space and necessary rights of ingress, egress and regress. Declarant or the Association may, but are not required to, File of Record a formal easement or easements covering any such facilities, either during or after expiration or termination of the Development Period.

9.05.4 A/C Condensing Units.

(a) General. Declarant may place or authorize placement of air conditioner condensing units and related pads, wiring, conduits and devices (an "A/C Unit") along any Lot line of a residence in such manner that the A/C Unit encroaches on an adjacent Lot, adjacent reserve subject to Association control or adjacent Community Properties (i) to a distance of not more than forty-eight inches (48") in the case of an A/C Unit located along the Zero Lot Line of a residence, and (ii) to a distance of twenty-four inches (24") in any other case. In either case, it is deemed that the Owner of the encroached upon property, including the Association, has granted perpetual, non-exclusive easements (x) for continuing placement of the A/C Unit(s) thereon, and (y) for operation, maintenance, repair and replacement of the A/C Unit(s) in substantial compliance with the original installation of the A/C Unit(s). The Owner of the encroached upon property is also deemed to have granted a perpetual easement to the adjacent Owner for access, ingress, egress and regress as to, together with reasonable working space around, the A/C Unit(s). The Owner of the encroached upon property must provide means of access as aforesaid, including maintenance of gating which is accessible to the adjacent Owner.

(b) A/C Unit Banks. Without limitation of the preceding subsection, Declarant may place or authorize placement of multiple A/C Units upon one or more Lots such that the multiple A/C Units service one or more Lots other than the Lot(s) upon which the A/C Units are located. In such event the easements as established by Sections 9.03 and 9.04 and as provided in the preceding subsection apply to all such multiple A/C Units and also extend to

any wires, lines, conduits and devices extending from each such A/C Unit to the Lot to be serviced by the applicable A/C Unit.

SECTION 9.06 Access.

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

9.06.2 Reciprocal Street Easements. The Owner of each Lot in the Subdivision irrevocably grants to each other Owner of a Lot in the Subdivision, and to Declarant, the Association and their Related Parties, reciprocal, perpetual, and non-exclusive rights-of-way and roadway easements for purposes of ingress, egress, regress, passage, and travel by vehicles and pedestrians over and across all streets or Shared Drives located within the Subdivision. In addition, each Owner hereby grants perpetual easements to Declarant, the Association and their Related Parties for, and irrevocably designates the Association as their agent in fact for, purposes of (i) installation, maintenance, repair, or replacement of all streets and Shared Drives within the Subdivision, and all improvements incident thereto as determined in the sole opinion of Declarant and/or the Board, and (ii) regulation of all aspects of usage of all streets and Shared Drives by Owners, tenants, their Related Parties and all other Persons in accordance with the Governing Documents. In connection with the foregoing each Owner agrees that no other easements or rights of usage of any kind may be granted by any Owner in, upon, under, over or across any street or Shared Drive without the prior written consent of Declarant or the Association. Each Owner hereby additionally grants to Declarant, the Association and their Related Parties a secondary easement as to as much additional surface of each Owner's Lot as reasonably necessary for the installation, operation, inspection, maintenance, repair, or replacement of any street or Shared Drive and related improvements.

SECTION 9.07 Other Easements. Declarant or the Board at any time have the right to grant, dedicate, reserve or otherwise create, easements for public, quasi-public or private utility purposes, including, without limitation, gas, electricity, telephone, sanitary or storm, cable television and similar services, along, over, above, across and under the Subdivision and any Lot; provided, such additional easements may not be located in such manner as to encroach upon the footprint or foundation of any then existing building (including any residence) or any swimming pool. Any such easement is not effective unless and until notice thereof is Filed of Record.

SECTION 9.08 Easements Perpetual and Not Conveyed. Title to any Lot does not in any event include the title to any easement established by or pursuant to this Declaration, including this Article IX. Such easements include without limitation all easements as to any roadways, or any drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone way, or any pipes, lines, poles, or conduits on or in any utility facility, service equipment or appurtenances thereto. Once established or obtained, no such easements may be thereafter adversely affected by any amendment of this Declaration. The foregoing does not limit subsequent abandonment or other modification of easement rights in accordance with applicable instruments covering any easement, by consent or agreement of the affected parties, or as otherwise provided by Applicable Law.

**ARTICLE X
GENERAL PROVISIONS**

SECTION 10.01 Development Period. All provisions as set forth in Exhibit "B" attached hereto and entitled "Development Period" are incorporated by reference herein. Notwithstanding any other provisions of this Declaration or any other Governing Documents to the contrary, all provisions set forth in Exhibit "B" apply during the Development Period (and thereafter as therein provided).

SECTION 10.02 Enforcement.

10.02.1 Right to Enforce. Declarant or the Association and any Owner have the right to enforce observance and performance of all restrictions, covenants, conditions and easements set forth in the Governing Documents, and in order to prevent a breach thereof or to enforce the observance or performance thereof have the right, in addition to all legal remedies, to an injunction either prohibitive or mandatory. All compliance costs and/or losses attributable to any violation and enforcement costs, including costs and attorneys' fees incurred by Declarant, the Association or their Related Parties, will be assessed as specific assessments, and are secured by the continuing lien established by **Article V** hereof. Declarant must be reimbursed from such specific assessments or directly for any such costs or expenses incurred by Declarant. All such sums are due and payable upon demand as applicable by Declarant, the Association or their Related Parties. Subject to **Section 10.02.3**, fines may be imposed as specific assessments by the Board for any violation of the Governing Documents except non-payment of assessments. Declarant, the Association, the Architectural Reviewer and their Related Parties are not liable on any basis or in any manner as to any actions or failure to act regarding enforcement as to this Declaration or any other Governing Documents.

10.02.2 Liability for Conduct of Others. Each Owner and the tenant of each Owner must ensure that their respective Related Parties strictly comply with all applicable provisions of the Governing Documents. Each Owner and each Owner's tenant is jointly, severally and strictly liable for all consequences of any such violation by their respective Related Parties. Each Owner and each tenant must indemnify, defend and hold and save harmless as applicable Declarant, the Association and their Related Parties from any claims, demands, losses, damages, liabilities, actions, causes of action, and costs or expenses, including court cost, attorneys' fees, and litigation or dispute resolution costs or expenses, made or asserted by Related Parties of the Owner or the Owner's tenant and which are attributable, directly or indirectly, to any such violation. Such indemnification will be secured and must be paid as specific assessments (Declarant and/or its Related Parties to be promptly reimbursed from such payments as applicable).

10.02.3 Fines.

(a) Subject to **Section 10.02.5**, fines may be imposed as specific assessments by the Board for any violation of the Governing Documents except non-payment of assessments. The Board may fix the amount of a fine for each violation on a case by case basis, or the Board may adopt fining schedules and other applicable Rules and Regulations regarding fines. In the latter event the Board will nonetheless retain full authority to adjust any fines as in its sole judgment the circumstances in any case may require. Fines may be progressive such as setting of increasing fine amounts for a first violation, second violation and subsequent violations. A first violation notice means the first violation notice given in accordance with **Section 10.02.5**. A second or subsequent violation means any violation which remains uncured within the cure period as stated in a first violation notice, or any subsequent violation which is similar to any prior violation which occurred within six months after the date of the first violation notice.

(b) Unless otherwise determined by the Board as above provided, a fine in the amount of \$75.00 will be assessed as to each violation of the Governing Documents (other than non-payment of assessments). The \$75.00 fine may be assessed immediately upon failure to cure within the cure period as stated in the first violation notice and at the time a second or subsequent violation notice is sent.

10.02.4 Filing of Notices of Non-Compliance. At any time the Board determines there exists any noncompliance with any provisions of the Governing Documents, the Board may at its option direct that a notice as to the noncompliance be Filed of Record covering the affected Lot or Lots and the Owner(s) thereof at the sole cost and expense of such Owner(s). All such costs and expenses are due and payable upon demand, are deemed a specific assessment applicable to the affected Lot(s) and are secured by the Association's continuing assessment lien.

10.02.5 Notice Required Before Enforcement Action. Before the Association may suspend an Owners right to use any Community Properties, file a suit against an Owner other than a suit to collect assessments or foreclose under the Association's continuing assessment lien, charge an Owner for property damage, or levy a fine for a violation of the Governing Documents the Association or its agent must give written notice to the Owner if and as required by Section 209.006 of the Texas Property Code.

10.02.6 No Waiver; Cumulative Rights. Failure of the Association or any Owner to enforce any of the provisions of any Governing Documents will in no event be deemed a waiver of the right to do so thereafter (including without limitation as to the same or similar violation whether occurring prior or subsequent thereto). No liability may attach to Declarant, the Association, or any of their Related Parties for any failure to enforce any provisions of the Governing Documents. Each right and remedy set forth in the Governing Documents is separate, distinct and non-exclusive, and all are cumulative. The pursuit of any right or remedy pursuant to the Governing Documents or Applicable Law is without prejudice to the pursuit of any other right or remedy, and the failure to exercise any particular right or remedy does not constitute a waiver of such right or remedy or any other right or remedy.

SECTION 10.03 Term. Subject to the provisions hereof regarding amendment, these covenants, conditions, restrictions, reservations, easements, liens and charges run with the land and are binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, executors and administrators, predecessors, successors and assigns, and all Persons claiming under them for a period of twenty years from the date this Declaration is Filed of Record, after which time said covenants, conditions, restrictions, reservations, easements, liens and charges will be automatically extended for successive periods of ten years each.

SECTION 10.04 Amendment.

10.04.1 By Owners. As provided in Exhibit "B" hereto Declarant reserves the sole and exclusive right to amend this Declaration and any other Governing Documents during the Development Period. Except as so provided in Exhibit "B" or as otherwise expressly provided herein, after the Development Period the Owners of sixty-seven percent (67%) of the total number of Lots then contained within the Subdivision have the power and authority to amend this Declaration, in whole or in part, at any time and from time to time. The Owner's approval of any amendment of this Declaration may be obtained (i) by execution of the amending instrument or a consent thereto by any Owner of each Lot so approving, (ii) by affirmative vote, in person or by proxy, at a special meeting called for consideration of any such amendment, or (iii) by any combination of the foregoing.

10.04.2 By Association. Subject to applicable provisions of Exhibit "B" hereto, the Board of Directors has the right in its sole judgment and at any time to amend this Declaration without the joinder, vote or consent of any Owner or any other Person for the following purposes:

(a) to resolve or clarify any ambiguity or conflicts herein, or to correct any inadvertent misstatements, errors or omissions herein; or

(b) in any manner deemed necessary or appropriate by the Board to provide for or to facilitate notices, communications and/or meetings of Owners, the Board, the Architectural Reviewer or any committee by Electronic Means, including conducting and tabulation of any votes; or

(c) to conform this Declaration to the requirements of any lending institution; provided, the Board has no obligation whatsoever to amend this Declaration in accordance with any such lending institution requirements, and the Board may not so amend this Declaration if in the sole opinion of the Board any substantive and substantial rights of Owners would be adversely affected thereby; or

(d) to conform this Declaration to the requirements of any governmental agency, including the Federal Home Loan Mortgage Corporation, Federal National Mortgage Agency, Veterans Administration or Federal Housing Administration, and in this respect the Board must so amend this Declaration to the extent required by law upon receipt of written notice of such requirements and request for compliance; or

(e) to conform this Declaration to any state or federal constitutional requirements, or to the requirements of any local, state or federal statute, ordinance, rule, ruling, regulation or other Applicable Law, or to any decisions of the courts regarding the same, including without limitation as required to conform the same to or as deemed necessary or appropriate by the Board as a result of any amendments to the Texas Property Code or other Applicable Law.

10.04.3 Effective Date. Except for correction amendments which will be effective as stated therein, any amendment of this Declaration will be effective from and after Filing of Record the amending instrument, or such later date as may be stated in the amending instrument.

10.04.4 "Amendment" Defined. In this Declaration and all other Governing Documents, the terms "**amend**", "**amendment**" or substantial equivalent mean and refer to any change, modification, revision, termination or release as to or of any provisions of this Declaration or other Governing Documents.

SECTION 10.05 Notices.

10.05.1 General: "Notice" Defined.

(a) "**Notice**" means all notices or other communications permitted or required under this Declaration, as amended. Any notice is deemed properly given only if given in accordance with this **Section 10.05** except as otherwise expressly provided in this Declaration. All notices must be given in writing, must be properly dated, and must identify all persons giving the notice and all persons to whom the notice is being given. All notices must also be signed by the sender(s). Notice by Electronic Means given in accordance with applicable provisions of this Declaration constitutes written and signed notice.

(b) Delivery. Except as otherwise expressly provided herein, all notices may be given by personal delivery acknowledged in writing, by certified or registered mail, return receipt requested, by "verified mail" as defined in Texas Property Code, Section 209.002(13) (being as of the date of filing of this Declaration any method of mailing for which evidence of mailing is provided by the United States Postal Services or a common carrier), or by Electronic Means. Notices by mail must be by deposit of the notice, enclosed in a postpaid properly addressed wrapper, in a post office or official depository of the United States Postal Service. Personal delivery may be made to any person at the recipient's address, or in the case of any Owner or tenant by posting on the front door at the Owner's Lot address (or alternate street address, if applicable). Personal delivery may be acknowledged either by the recipient or by a third-party delivery service or common carrier.

(c) Deemed Delivery. REFUSAL BY ANY OWNER OR TENANT TO RECEIVE OR ACCEPT DELIVERY OR TRANSMISSION OF ANY NOTICE GIVEN IN ACCORDANCE WITH THIS SECTION 10.05, OR FAILURE BY ANY OWNER OR TENANT TO PROPERLY MAINTAIN THE MEANS FOR DELIVERY OR TRANSMISSION (SUCH AS FOR EXAMPLE BUT WITHOUT LIMITATION, FAILURE TO PROPERLY MAINTAIN A MAILBOX, OR FAILURE TO MAINTAIN RECEPTION CAPABILITIES BY ELECTRONIC MEANS), IS DEEMED ACTUAL NOTICE AND ACTUAL KNOWLEDGE OF THE MATERIALS DELIVERED OR TRANSMITTED IN ACCORDANCE WITH THIS SECTION 10.05.

10.05.2 Owner/Tenant Responsibilities as to Electronic Means. It is the obligation of each Owner and each tenant (i) to provide and keep the Association updated as to current "contact information" as provided in Section 10.05.4, and (ii) to maintain the capability to receive any notices or other communications from the Association or Declarant by, and to participate in any meetings as provided in this Declaration, the bylaws or other Governing Documents by, Electronic Means. By acceptance of any right, title or interest in any Lot, or by occupancy thereof, each Owner and their tenant(s) consent to the use of Electronic Means by the Association or by Declarant as to any notices, communications or meetings in accordance with this Declaration, and in accordance with the bylaws and other Governing Documents.

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

10.05.4 One Address/Number and Delivery Limit. NO OWNER MAY MAINTAIN MORE THAN ONE CURRENT MAILING ADDRESS WITH THE ASSOCIATION FOR

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

10.05.5 Notices to Declarant. All notices to Declarant, either during or after the Development Period, must be given to Declarant as provided in Section 5.255 of the Texas Business Organizations Code, as amended, at Declarant's registered office or principal office, and as otherwise provided in this Section.

10.05.6 Other Information and Governing Documents. The Association may from time to time by written request require any Owner or tenant to provide, confirm, verify and update any information covered by this Section 10.05 and/or by Section 10.06, or to provide other information or documentation relevant to the functions of the Association by submission of such information and documentation as the Association may reasonably require. The foregoing includes without limitation written confirmation as to the name, mailing address, telephone number, and if known or reasonably ascertainable, the facsimile number and email address of each mortgagee and/or other lien holder as to each mortgage or lien covering the Owner's Lot, and each insurer or guarantor thereof, and as to each such mortgagee or lien holder, insurer and guarantor, the nature of the loan or other encumbrance (such as purchase money loan, home equity loan or tax lien), and the account or similar identifying number or other designation applicable to the mortgage. The Association may at any time and from time to time provide to any mortgagee or lien holder a statement of any unpaid assessments or other amounts payable to the Association and of any violations of the Governing Documents then known to the Association. If an Owner is delinquent in payment of any assessments to the Association, upon written request of the Association a mortgagee or other lien holder, or the insurer or guarantor of a mortgage, must provide the Association with information setting forth the status of such Owner's debt secured by the mortgage and other relevant information as set forth in the Association's request.

SECTION 10.06 Managing Agent. Declarant or the Board may at any time retain, hire, employ or contract with one or more Persons to provide management services to the Association, including discharge of such functions and duties of the Association and/or the Board and/or the Architectural Reviewer as determined by the Board (any such Person herein referred to as a "Managing Agent"). Any Managing Agent may be retained, hired, employed or contracted for on such terms and conditions as Declarant or the Board, as applicable, may determine; provided, the Association retains the right in all cases and as to any Managing Agent to remove the Managing Agent, with or without cause, upon not more than sixty days written notice. The right to remove any Managing Agent applies whether or not provided for in any applicable contract or agreement, and notwithstanding any contrary provisions in any contract or agreement.

SECTION 10.07 Construction.

10.07.1 Interpretation. The provisions of this Declaration and of all other Governing Documents are to be liberally construed and must be applied to give full effect to the purposes thereof. If this Declaration or any word, clause, sentence, paragraph, or other part thereof is susceptible to more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration and the

scheme of development thereunder will govern. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience, and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. In particular and without limitation, the division of use restrictions under **Article VII** hereof and architectural restrictions under **Article VIII** hereof are for convenience of reference, it being the intent that all such provisions be given full effect in an integrated manner in light of the general purposes and objectives of this Declaration and the scheme of development accomplished thereby. Whenever used, the singular number includes the plural and the plural includes the singular, and the use of any gender is applicable to all genders.

10.07.2 Severability. Wherever possible, each provision of this Declaration must be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person, particular circumstance or property is prohibited or held to be invalid, such prohibition or invalidity will not extend beyond such Person, particular circumstance or property and will not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

SECTION 10.08 Conflicts In Governing Documents. In the event of any conflict in the Governing Documents which cannot be reasonably reconciled after application of rules of interpretation as provided herein or by law, this Declaration controls over any other Governing Documents, and all other Governing Documents control in the following order of priority: (i) Architectural Guidelines; (ii) Rules and Regulations; (iii) certificate of formation; (iv) bylaws; (v) Board and Member resolutions; and (vi) all others.

SECTION 10.09 Joinder. **CND - Timbergrove, LLC**, a Texas limited liability company, as the current Owner of record of all properties in the Subdivision, including all Lots, which are not currently owned by Declarant, by execution hereof thereby adopts, ratifies and confirms all terms and provisions of this Declaration, including all Exhibits to this Declaration.

SECTION 10.10 Effective Date. This Declaration is effective from and after the date of Filing of Record of the same, subject to amendment as herein provided.

IN WITNESS WHEREOF, the undersigned have executed this Declaration to be effective as above stated.

EXECUTED this 21st day of December, 2018.

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

By: DM WEEKLEY, INC.,
a Delaware corporation,
its Manager

By: 
Name: John Burchfield
Title: General Counsel

CND - TIMBERGROVE, LLC,
a Texas limited liability company

By: DM WEEKLEY, INC.,
a Delaware corporation,
its Manager

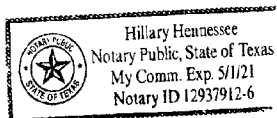
By: *[Signature]*
Name: **John Burchfield**
Title: **General Counsel**

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 21st day of December, 2018, by John Burchfield, as General Counsel of DM WEEKLEY, INC., a Delaware corporation, on behalf of the corporation acting as the Manager of WEEKLEY HOMES, LLC, a Delaware limited liability company, on behalf of the company.

[SEAL]



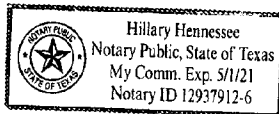
[Signature]
Notary Public, State of Texas

Printed Name: Hillary Hennessee

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 21st day of December, 2018, by John Burchfield, as General Counsel of DM WEEKLEY, INC., a Delaware corporation, on behalf of the corporation acting as the Manager of CND - TIMBERGROVE, LLC, a Texas limited liability company, on behalf of the company.

[SEAL]



[Signature]
Notary Public, State of Texas

Print Name: Hillary Hennessee

RP-2018-571776

MORTGAGEE/LIENHOLDER CONSENT

The undersigned mortgagee/lienholder, being the owner and holder of an existing mortgage or lien upon and against the land and property described as the Subdivision in the foregoing Declaration of Covenants, Conditions, Restrictions and Easements for Timbergrove (Heights at Minimax), as such mortgagee and lienholder, does hereby consent to said Declaration as if the same had been recorded prior to the creation of such lien.

This consent will not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof. Notwithstanding any other provisions of this Declaration or any other governing documents of the Association, the said mortgage or lien will be superior to the Association's lien securing payment of any assessments.

EXECUTED this 21st day of December, 2018.

First Continental Investment Co., Ltd.

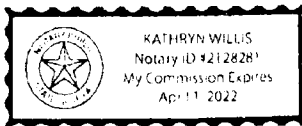
(Print Name of Mortgagee/Lienholder)

By: [Signature]
Name: John M. Bonner
Title: President

STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 21st day of December, 2018, by John M. Bonner, as President of First Continental Investment Co., Ltd. a Texas limited partnership, on behalf of the said entity.

[SEAL]



[Signature]
Notary Public, State of Texas

Print Name: Kathryn Willis
My Commission Expires: 4-1-2022

RP-2018-571776

**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS**

FOR

**TIMBERGROVE
(Heights at Minimax)**

**EXHIBIT "A": PROPERTY CONDITIONS AND OTHER
SUBDIVISION NOTICES, RELEASES AND INDEMNITIES**

A1.01 Application; Definitions. The provisions of this Exhibit "A" apply notwithstanding any other provisions of the Declaration or any other Governing Documents. In the event of any conflict between the Declaration or any other Governing Documents and this Exhibit "A", the provisions of this Exhibit "A" will control. In addition to the definitions contained in this Exhibit "A", if any, all definitions set forth in the Declaration (including **Article II** of and Exhibit "B" to the Declaration) are incorporated by reference herein. The provisions of this Exhibit "A" apply for the full term of the Declaration, including during and after the Development Period, as applicable.

A2.01 Notices: THE NOTICES SET FORTH IN THIS EXHIBIT "A" ARE HEREBY GIVEN TO ALL PROSPECTIVE PURCHASERS, TO ALL OWNERS, TENANTS AND THEIR RELATED PARTIES AND TO ALL OTHER PERSONS ENTERING, OCCUPYING OR USING ANY PART OF THE SUBDIVISION, INCLUDING ANY LOT OR COMMUNITY PROPERTIES. IT IS THE SOLE RESPONSIBILITY OF EACH PROSPECTIVE PURCHASER, AND OF EACH OWNER, TENANT AND OTHER OCCUPANT, TO INDEPENDENTLY INVESTIGATE AND VERIFY THE PRESENCE OR ABSENCE OF ANY AND ALL CONDITIONS AND MATTERS REFERENCED HEREIN, AND TO DETERMINE SUITABILITY OF RESIDENCY OR OCCUPANCY WITHIN THE SUBDIVISION.

A3.01 Property Conditions and Other Matters of Record.

A3.01.1 Development Period; Development Plans.

(a) As more particularly described in Exhibit "B" to the Declaration, the conducting of Development Activities will necessarily result in the creation and accumulation of dust, construction materials and equipment, trash and other debris, and additional traffic, noise, vibration, visual impact, and other inconveniences, disturbances, annoyance and variances from average or normal conditions within the Subdivision, and may include without limitation the creation of noxious, toxic or corrosive fumes or gases, obnoxious odors and temporary interruption of utilities and/or other services. These matters and conditions will necessarily exist and continue for longer periods of time as to Owners, tenants and other occupants who occupy residences early in the Development Period. No such Development Activities may ever be deemed a nuisance, or a violation of the Declaration or any other Governing Documents.

(b) As more particularly described in the Declaration, including Exhibit "B" to the Declaration, Declarant may, unilaterally and at any time, amend the Declaration and any other Governing Documents, may annex and/or withdraw properties from the Subdivision, may add to, remove and/or otherwise change the Community Properties, and may change or reconfigure the Subdivision, including without limitation with respect to costs for or the price range of Lots, residences and other Improvements, and/or the size, appearance, type, grade or configuration of any Lot, and/or the size, square footage, appearance, style, types or grades of

residences and/or roofing or exterior or other materials, color scheme or any other features of any residence or any other Improvements. Any advertising materials, brochures, renderings, drawings, and any other representations, information or documentation as to the same are merely approximations as of the date provided, and do not in any manner limit any of Declarant's aforesaid rights. In addition to but without limitation of the foregoing, Declarant expressly disclaims any representations or warranties whatsoever as to the locations of any utilities, including utility boxes, street lighting, fire hydrants, or water or storm sewer lines, drain inlets or basins, or any related devices or facilities.

A3.01.2 Disruptions Due to Maintenance, Operation or Use. Maintenance, operation and use of Community Properties in general, and as to reserves, recreational facilities or amenities, guest parking areas, and other areas which are open generally to owners, tenants and/or their Related Parties will necessarily result in additional traffic, noise, visual impact, and other inconveniences, disturbances, annoyance and variances from average or normal conditions within the Subdivision.

A3.01.3 Areas Outside Subdivision, Including Streets and Airports. Declarant, the Association and their Related parties have little or no control over the development, use, occupancy, appearance or any other conditions regarding any properties adjacent to or within the vicinity of the Subdivision and have no duties or responsibilities whatsoever regarding the same. For example, but without limitation, the Subdivision may be affected by traffic and noise from area streets or thoroughfares, including as may be caused by construction, widening and/or other improved in the future as to the same.

A3.01.4 Environmental Conditions. Environmental conditions may exist within and/or emanate from Community Properties and/or Community Properties and/or other areas within or in the vicinity of the Subdivision which may or could affect health, safety or other qualities of life. Declarant, the Association and their Related Parties have no duties or responsibilities whatsoever regarding any of the foregoing. An Owner may mitigate (or consent to mitigation) as to the Owner's Lot, at the Owner's sole cost and expense, environmental conditions which are or may become a concern to the Owner, any tenant or any other occupants, provided that such mitigation may not damage or interfere with another Lot or the Community Properties and may not adversely affect Prevailing Community Standards, and subject in all cases to applicable provisions of **ARTICLE IV** of the Declaration regarding Architectural Reviewer review and approval.

A3.01.5 Light and View. The natural light available to and views from any Lot or residence may change over time due to various factors, including without limitation, additional development and the removal or addition of landscaping within or in the vicinity of the Subdivision. Natural light and views are not protected, and Declarant makes no representations or warranties regarding the same.

A3.01.6 Water Runoff, Inundation and Flooding; Flood Insurance Notice.

(a) The Subdivision may be subject to erosion, water runoff, water overflow, flooding or other water inundation during unusually intense or prolonged periods of rain. Water may pond on various portions of the Subdivision, especially in areas having impervious surfaces. Risk factors as to flooding as a result of overflow of inland or tidal waters, and/or flooding, flood pooling, water overflow or discharge from dams, reservoirs and other water storage, management or reclamation projects or other water inundation are necessarily greater as to properties located near or in the areas of inland or coastal waters, or near or in the areas where dams, reservoirs or other water storage, management or reclamation projects are or may

be located. Site specific information as to the locations of and risk factors concerning the foregoing are widely available, including on the Internet, and should be consulted by any prospective purchaser, Owner, tenant or other occupant as to any properties within the Subdivision.

(b) HOMEOWNER INSURANCE POLICIES DO NOT COVER LOSSES DUE TO FLOODS. Owners can insure their residences and contents and tenants can insure their possessions through the Federal Emergency Management Agency ("FEMA") and the National Flood Insurance Program. As of the date of this Declaration there is a 30-day waiting period before a flood insurance policy takes effect. Lenders may require flood insurance. Owners and tenants are in any case strongly advised to obtain flood insurance. As of the date of this Declaration additional information is available at www.floodsmart.gov, and other FEMA websites.

(c) DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES HAVE NO RESPONSIBILITIES, DUTIES OR LIABILITIES WHATSOEVER REGARDING ANY POTENTIAL OR ACTUAL WATER RUNOFF, PONDING, FLOODING, FLOOD POOLOING, OVERFLOW, WATER INUNDATION, WATER POLLUTION, OR RELATED HEALTH, SAFETY OR ENVIRONMENTAL MATTERS WITHIN OR IN THE VICINITY OF THE SUBDIVISION, ANY POTENTIAL OR ACTUAL IMPACT OF OR MITIGATION REGARDING ANY WATER RUNOFF, PONDING, FLOODING, FLOOD POOLOING OR OVERFLOW, OR ANY OTHER WATER INUNDATION, OR OBTAINING OR MAINTAINING OF ANY FLOOD INSURANCE BY ANY OWNER, TENANT OR THEIR RELATED PARTIES, ANY LIENHOLDER, OR ANY OTHER PERSON.

A3.01.7 Private Water System Notice. The Subdivision has a private water system. The water system is not a public water system. The water system, including water lines and fire hydrants, must be maintained by the Association and/or the owners in accordance with this Declaration and all other applicable Governing Documents.

A3.01.8 Other Restrictions. In addition to and without limitation of any provisions of the Declaration or other Governing Documents, each Lot and the Subdivision are subject to and each Owner, tenant and occupant covenants and agrees to comply with all applicable provisions of all Plats, common area agreements, property access easements or agreements, no build restrictions, and any and all other valid and enforceable covenants, conditions, restrictions, easements and all other applicable instruments as Filed of Record, as amended, as heretofore or hereafter established as to the Subdivision and/or as to any Lot or any other properties contained therein.

A4.01 Release and Indemnity: BY ACQUISITION OF ANY RIGHT, TITLE OR INTEREST IN AND/OR BY OCCUPANCY OF ANY LOT WITHIN THE SUBDIVISION, INCLUDING ANY LOT WHICH IS ADJACENT TO OR IN THE VICINITY OF ANY COMMUNITY PROPERTIES OR UPON WHICH ANY COMMUNITY PROPERTIES ARE LOCATED, AND/OR BY ENTRY IN TO OR USAGE OF ANY LOT OR COMMUNITY PROPERTIES, EACH OWNER, TENANT AND THEIR RELATED PARTIES, AND EACH OCCUPANT AND ALL OTHER PERSONS, ACKNOWLEDGE, CONSENT TO AND ACCEPT ALL PROPERTY CONDITIONS, RESTRICTIONS AND OTHER MATTERS OF RECORD AND ALL OTHER MATTERS AND CONDITIONS AS DESCRIBED OR REFERENCED IN THE DECLARATION, INCLUDING THIS EXHIBIT "A", AND FULLY WAIVES AND RELEASES AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT, ALL DEVELOPMENT PERSONNEL, THE ASSOCIATION AND THEIR RELATED PARTIES FROM ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, ACTIONS AND CAUSES OF ACTION OF ANY KIND WHATSOEVER AS TO ALL SUCH MATTERS AND CONDITIONED, INCLUDING WITHOUT LIMITATION WITH REGARD

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TO ALL DEVELOPMENT ACTIVITIES AND ANY ENVIRONMENTAL, HEALTH OR SAFETY ISSUES. ABSENT INTENTIONAL AND WILLFUL MISCONDUCT, DECLARANT, ITS RELATED PARTIES AND ALL OTHER DEVELOPMENT PERSONNEL (INCLUDING AS TO ANY AUTHORIZED BUILDER) ARE NOT LIABLE TO ANY OWNER, TENANT OR ANY OTHER OCCUPANT, OR TO THE ASSOCIATION OR ARCHITECTURAL REVIEWER, OR TO ANY RELATED PARTIES OF ANY OF THE FOREGOING, OR TO ANY OTHER PERSON FOR ANY CONSEQUENCES OF THE CONDUCTING OF ANY DEVELOPMENT ACTIVITIES.

A5.01 Provisions Not Exclusive. THE PROPERTY CONDITIONS AND OTHER MATTERS AND NOTICES AS SET FORTH IN THIS EXHIBIT "A" ARE NOT EXCLUSIVE OR EXHAUSTIVE AND ARE CUMULATIVE AS TO ALL OTHER APPLICABLE PROVISIONS OF THE DECLARATION, INCLUDING EXHIBIT "B" THERETO, AND OF ALL OTHER GOVERNING DOCUMENTS. THERE MAY BE OTHER CONDITIONS WITHIN OR WITHIN THE VICINITY OF THE SUBDIVISION AND OTHER MATTERS WHICH MAY AFFECT THE SUBDIVISION WHICH ARE NOT SUITABLE FOR PARTICULAR PERSONS. IT IS THE SOLE RESPONSIBILITY OF EACH PROSPECTIVE PURCHASER, OWNER, TENANT AND OTHER OCCUPANT TO INDEPENDENTLY INVESTIGATE AND VERIFY THE PRESENCE OR ABSENCE OF ANY SUCH CONDITIONS OR MATTERS.

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**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS**

FOR

**TIMBERGROVE
(Heights at Minimax)**

EXHIBIT "B": DEVELOPMENT PERIOD

B1.01 Application. Notwithstanding any other provisions of the Governing Documents to the contrary, the provisions of this Exhibit "B" apply during the Development Period (and thereafter as herein provided). In the event of any conflict between Governing Documents and this Exhibit "B", the provisions of this Exhibit "B" will control.

B2.01 Declarant Authority.

B2.01.1 Declarant Rights. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE GOVERNING DOCUMENTS, DURING THE DEVELOPMENT PERIOD (AND THEREAFTER AS APPLICABLE) DECLARANT MAY EXERCISE ALL RIGHTS, AUTHORITY, POWERS, PRIVILEGES AND PREROGATIVES OF DECLARANT AS PROVIDED IN OR PERMITTED BY THE GOVERNING DOCUMENTS, INCLUDING THE DECLARATION AND THIS EXHIBIT "B" THERETO, INDEPENDENTLY AND UNILATERALLY, WITHOUT NOTICE TO, AND WITHOUT THE JOINDER, VOTE OR CONSENT OF THE BOARD, THE ARCHITECTURAL REVIEWER, ANY OTHER OWNER OR ANY OTHER PERSON. IN LIKE MANNER AND TO THE SAME EXTENT, DURING THE DECLARANT CONTROL PERIOD DECLARANT MAY INDEPENDENTLY EXERCISE ANY RIGHTS, AUTHORITY, POWERS, PRIVILEGES OR PREROGATIVES OF THE ASSOCIATION OR THE BOARD. DECLARANT MAY EXERCISE ANY AND ALL SUCH RIGHTS, AUTHORITY, POWERS, PRIVILEGES AND PREROGATIVES IN DECLARANT'S SOLE AND ABSOLUTE DISCRETION AND IN DECLARANT'S SOLE INTEREST, AND DECLARANT OWES NO DUTY OF ANY KIND WHATSOEVER TO ANY OTHER PERSON OR ORGANIZATION REGARDING ANY OF THE SAME. EXCEPT AS OTHERWISE PROVIDED IN THE GOVERNING DOCUMENTS, INCLUDING THE DECLARATION AND THIS EXHIBIT "B" THERETO, SUCH RIGHTS, AUTHORITY, POWERS, PRIVILEGES AND PREROGATIVES OF DECLARANT AS THE DECLARANT WILL TERMINATE UPON TERMINATION OF THE DECLARANT CONTROL PERIOD OR THE DEVELOPMENT PERIOD AS APPLICABLE AND AS PROVIDED IN THE DECLARATION, INCLUDING THIS EXHIBIT "B".

B2.01.2 Declarant Control Period.

(a) Appointment of Directors and Officers. During the Declarant Control Period Declarant has exclusive authority to appoint, reappoint, elect, remove (with or without cause) or replace any and all Directors and officers of the Association, and to otherwise fill any and all vacancy regarding the same. Any provisions of the Governing Documents which are inconsistent with or contrary to the foregoing, including any provisions regarding qualifications of any Directors or officers, are hereby specifically declared inapplicable regarding any such Directors or officers who are appointed, reappointed, elected, removed or replaced by Declarant.

(b) Meetings of Owners. The provisions of this subsection apply to any meeting of Owners during the Declarant Control Period. Within one year following completion of the Initial Sale of the first Lot in the Subdivision and annually thereafter, the Board must call an annual meeting of the Members of the Association. Declarant or the Board may call such other meetings of Owners as determined by either. During the Declarant Control Period each meeting (other than the First Annual Election Meeting) will be primarily informational in nature. Declarant will set the place, time and date of each meeting of Owners, and may determine all matters regarding the conducting of each meeting. Notice of each meeting must be given to all Owners. All costs to call, notice and conduct any meeting of Owners, including the First Annual Election Meeting, will be paid from the Maintenance Fund.

(c) Board Meetings and Actions. During the Declarant Control Period meetings of the Board are permitted but are not required. Except as otherwise required by Section 209.0051(i) of the Texas Property Code, during the Declarant Control Period the Board may meet and act in any manner permitted by the Declaration, including this Exhibit "B" thereto, the Bylaws, or the Texas Business Organizations Code. The foregoing includes without limitation holding of any meetings, the taking of any vote or the taking of any other action by the Board by written consent without a meeting, and in any such case without notice to, and without the joinder, vote or consent of any Member or Owner or of any other Person.

B2.01.3 Election of Owner Directors.

(a) Until the Declarant Control Transfer Date, the Association will be managed by a Board of three Directors. Thereafter, the number of Directors may be changed as provided in the Bylaws. Except for Owner Directors elected by Owners as provided below, during the Declarant Control Period Declarant has sole authority to appoint and from time to time and at any time to remove (with or without cause) and replace any Directors.

(b) The Declaration does not include the number of Lots that may be created and made subject to the Declaration. If the Owners other than Declarant have not previously done so by the tenth anniversary after the date the Declaration was Filed of Record, then at least one-third of the Board of Directors must be elected by Owners other than Declarant by the said tenth anniversary. Any such Owner Director will serve until the next annual meeting of Owners at which a successor will be elected by Owners other than Declarant, or until the First Annual Election Meeting, whichever first occurs.

(c) "First Annual Election Meeting" means the first meeting of Owners called by Declarant for election by Owners, including Declarant as applicable, of all members of the Board of Directors. Declarant must call the First Annual Election Meeting within 90 days after termination or expiration of the Development Period, or such earlier date as determined by Declarant. The sole purpose of the First Annual Election Meeting is to conduct the election of Owner Directors. At the First Annual Election Meeting all Owners, including Declarant as applicable, will have one vote for each Lot owned as to election of Owner Directors.

(d) Declarant will set the place, the time and the date of the First Annual Election Meeting (the "First Annual Election Meeting Date") and notice thereof must be given to all Owners. At the First Annual Election Meeting Owners will elect all Owner Directors. If one or more but less than all Owner Directors are elected at the First Annual Election Meeting, then the Owner Director(s) who have been elected, through less than a quorum, may appoint as many Owner Directors as needed to fill all remaining Director positions. If no Owner Director is elected at the First Annual Election Meeting, then at any time until the expiration of 90 days after the First Annual Election Meeting Date Declarant may appoint one Owner Director who may in turn appoint

all remaining Owner Directors. If no Owner Director is elected or appointed as aforesaid, then after expiration of the aforesaid 90-day period any Owner may call, notice and conduct an alternate First Annual Election Meeting for the sole purpose of electing Owner Directors.

(e) IF NO OWNER DIRECTOR IS APPOINTED OR ELECTED NOT LATER THAN TWO YEARS PLUS ONE DAY AFTER THE FIRST ANNUAL ELECTION MEETING DATE, THEN (i) ALL FUNDS REMAINING IN THE MAINTENANCE FUND, IF ANY, WILL BE DEEMED ABANDONED AND EXCLUSIVE OWNERSHIP THEREOF WILL BE AUTOMATICALLY TRANSFERRED TO DECLARANT, AND (ii) ANY BOOKS AND RECORDS OF THE ASSOCIATION OR THE ARCHITECTURAL REVIEWER IN THE POSSESSION OR CONTROL OF DECLARANT OR DECLARANT'S RELATED PARTIES MAY BE STORED AT THE EXPENSE OF THE ASSOCIATION AND MAY THEREAFTER BE DESTROYED IN ACCORDANCE WITH THE ASSOCIATION'S DOCUMENTS RETENTION POLICY IN EFFECT AS OF THE FIRST ANNUAL ELECTION MEETING DATE.

B2.01.4 Transfer of Declarant Control. "Declarant Control Transfer Date" means the date of occurrence of the earlier of the election by Owners or appointment by Declarant of at least one Owner Director at or after the First Annual Election Meeting, or 90 days after the First Annual Election Meeting Date. ON THE DECLARANT CONTROL TRANSFER DATE (i) ALL OFFICERS, DIRECTORS AND ANY ARCHITECTURAL REVIEWER DESIGNEE THERETOFORE APPOINTED OR ELECTED BY DECLARANT ARE AUTOMATICALLY REMOVED FROM OFFICE AND FULLY RELIEVED THEREAFTER FROM ANY FURTHER RIGHTS, DUTIES, LIABILITIES AND RESPONSIBILITIES REGARDING THE ASSOCIATION OR THE SUBDIVISION, AND (ii) THE ASSOCIATION AND ITS MEMBERS BECOME WHOLLY AND SOLELY RESPONSIBLE FOR THE MANAGEMENT, MAINTENANCE, OPERATION OF AND ARCHITECTURAL CONTROL AS TO THE ASSOCIATION AND OF THE SUBDIVISION, INCLUDING WITHOUT LIMITATION FULL AND SOLE ASSUMPTION BY THE ASSOCIATION OF ALL GOVERNANCE, BUDGETARY AND MAINTENANCE RESPONSIBILITIES OF THE ASSOCIATION. THE FOREGOING IS SUBJECT TO SECTION B2.01.7 REGARDING DECLARANT'S ARCHITECTURAL REVIEW EXEMPTIONS AND AUTHORITY, AND SUCH EXEMPTION AND AUTHORITY WILL CONTINUE AS THEREIN PROVIDED. TERMINATION OF THE DECLARANT CONTROL PERIOD DOES NOT TERMINATE THE DEVELOPMENT PERIOD OR ANY RIGHTS OR AUTHORITY OF DECLARANT APPLICABLE TO THE SAME. THE DEVELOPMENT PERIOD WILL TERMINATE, IN WHOLE OR IN PART, ONLY AS EXPRESSLY PROVIDED IN THE DECLARATION.

B2.01.5 Required Notices to Declarant. Until expiration of two years following the Declarant Control Transfer Date, Declarant must be (i) provided with true and correct copies of any and all notices given to Owners or Members and all documents provided with each notice prior to or at the same time each notice and/or other document is given to Owners or Members, and (ii) given written notice of the name, mailing address, contact telephone numbers and the email address of each Owner Director who is elected or appointed by Owners within ten days after any applicable election or appointment.

B2.01.6 Declarant's Veto Authority. During the Declarant Control Period and the Development Period Declarant has continuing and unilateral authority to veto any decisions or actions of the Owners, the Association and any of their Related Parties. The foregoing applies throughout the Development Period even if the Declarant Control Period ends prior to termination of the Development Period.

B2.01.7 Declarant's Architectural Review Exemptions and Authority. Until completion of the Initial Sale of all Lots within the Subdivision, whether or not the Initial Sale

occurs during or after the Development Period (i) Declarant is not required to obtain Board or Architectural Reviewer approval, or to otherwise comply in any manner with any architectural review or approval provisions of the Governing Documents, including **Article IV** of the Declaration, and (ii) as to each such Lot, Declarant will act as the Architectural Reviewer as to and reserves and retains full and exclusive architectural authority, and the right to engage in (and to authorize any Authorized Builder to engage in) any and all Development Activities. Declarant's authority includes without limitation the right to assess (on a case by case basis and without formal adoption of architectural guidelines), and to receive payment of, architectural review fees. Declarant is exempt from payment of any architectural review fees.

B2.01.8 Approval of Builder ("Authorized Builder") By Declarant Required. During the Development Period no builder is permitted to construct any residence or appurtenant Improvements upon any Lot or to otherwise conduct any Development Activities within the Subdivision other than a builder which has been designated in writing by Declarant as an Authorized Builder (if any, and whether one or more). Declarant expressly reserves the right from time to time and at any time to extend any rights of Declarant regarding the conducting of any Development Activities to any Authorized Builder, to regulate any and all activities of any Authorized Builder or any other builder, and to limit, modify or remove any such rights of any Authorized Builder or any other builder. Declarant's designation of any builder as an Authorized Builder does not pass to any successor builder or to any other Person and may not be otherwise transferred or assigned. Declarant's right to designate (or not designate) any builder as an Authorized Builder may be assigned only to another "Declarant" as so designated in accordance with applicable provisions of the Declaration.

B3.01 Declarant and Builder Assessments, and Related Matters.

B3.01.1 Definitions. As used in this Section the following definitions apply:

(a) "**Actual Operating Expenses**" means only those expenses reasonably necessary during the Declarant Control Period for the discharge of the Association's functions and duties under the Declaration as determined by Declarant. Actual Operating Expenses do not include payment of or funding for any capital expenditures, or of any capital, contingency or other reserves, or of any expenses attributable to periods after expiration or termination of the Declarant Control Period.

(b) "**Deficit Funding**" means any payments by Declarant advanced, loaned or paid to or on behalf of the Association. Deficit Funding may include in kind payments in services, labor or materials, or any combination thereof. The amount of any in kind payment will be the fair market value of the in kind payment as determined by Declarant.

B3.01.2 Budgets; Setting of Assessments. During the Declarant Control Period Declarant may establish all Association budgets and may set and change the rates of any regular assessments and/or impose special assessments and/or specific assessments without the joinder, vote or consent of the Board, any Owner or any other Person, and without further formality than giving of notice thereof to the extent notice by the Association would otherwise be required by this Declaration. During the Declarant Control Period Declarant will only budget for Actual Operating Expenses of the Association.

B3.01.3 Declarant Assessment Exemption. Notwithstanding any other provisions of the Governing Documents, **DECLARANT IS EXEMPT FROM PAYMENT OF ANY ASSESSMENTS AS TO ANY LOT OR ANY OTHER PROPERTY OWNED BY DECLARANT**

WITHIN THE SUBDIVISION, BOTH DURING AND AFTER THE DECLARANT CONTROL PERIOD AND THE DEVELOPMENT PERIOD.

B3.01.4 Discretionary Declarant Deficit Funding; Repayment. During the Declarant Control Period if there is a deficit in funding as to Actual Operating Expenses of the Association, then Declarant **may** provide Deficit Funding to the Association. Providing of Deficit Funding at any time or from time to time will not obligate Declarant to thereafter provide any Deficit Funding. Declarant **may** demand and receive repayment from the Association as to any Deficit Funding at any time and from time to time within one year following the expiration or termination of the Development Period. As to any such demand Declarant may require that the Board, on behalf of the Association, execute and deliver to Declarant one or more promissory notes and/or other instruments evidencing the Association's repayment obligation(s). No such promissory notes or other instruments may be secured by a lien on any of the Community Property but may be secured by a security interest in any assessments payable or to become payable to, and any other receivables of, the Association. So long as demand is made within one year following termination or expiration of the Development Period as aforesaid, promissory notes and/or other instruments may be executed and payments, including any installment payments, may extend for such period(s) of time as is required for repayment, whether during or after the Declarant Control Period or the Development Period. All payments to be so made must be included in the operating budget or budgets of the Association until repayment is completed. Any such promissory note or other instrument will be without interest if paid within thirty days after demand, and otherwise for such period of time, at such interest rate not to exceed ten percent (10%) and on such other terms as provided in any applicable promissory note or other instrument as determined by Declarant.

B3.01.5 Builder Assessments. Declarant may exempt any Authorized Builder from payment of any regular or special assessments, in whole or in part. In the absence of any such exemption, all Authorized Builders, and in all cases any builder who is not an Authorized Builder, if any, must pay all assessments as to each Lot owned, beginning on the date of purchase, at the full rate applicable to Owners other than Declarant.

B4.01 Community Properties. Regardless of designation by any Plat or any other Governing Documents, during the Development Period Declarant may at any time and from time to time (i) designate, construct, or expand any Community Properties, and (ii) modify, sell, eliminate or otherwise dispose of, discontinue, reconfigure, redesign, re-designate or in any other manner change the Community Properties. Declarant makes no representations, warranties or guarantees of any kind whatsoever regarding any of the foregoing, all of which are hereby specifically disclaimed. Once provided or constructed, regardless of whether or not title has been transferred or conveyed to the Association and for so long as the same remain a part of the Community Properties, all costs and expenses of the operation, management, maintenance, repair and replacement of all Community Properties must be paid by the Association, either directly or by reimbursement of Declarant. ANY RIGHT, TITLE OR INTEREST TO ALL COMMUNITY PROPERTIES, REAL OR PERSONAL, WILL BE TRANSFERRED, CONVEYED OR ASSIGNED TO THE ASSOCIATION ON AN "AS IS", "WHERE IS" AND "WITH ALL FAULTS" BASIS, WITHOUT ISSUANCE OF ANY TITLE INSURANCE OR POLICY, AND, WITHOUT ANY COVENANT, WARRANTY, GUARANTY OR REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, WHETHER COMMON LAW OR STATUTORY, AND INCLUDING SPECIFICALLY WITHOUT LIMITATION, ANY STATUTORY WARRANTY OF SECTION 5.023 OF THE TEXAS PROPERTY CODE, AS AMENDED.

B5.01 Development Activities.

B5.01.1 **General.** During the Development Period and through the Initial Sale of all Lots within the Subdivision, whether or not completion of the Initial Sale occurs during or after the Development Period, Declarant, Declarant's Related Parties and all Development Personnel have the right and authority to conduct any and all Development Activities during any times and on any days as deemed necessary or appropriate by Declarant. "Development Personnel" means all constructors, sub-contractors, suppliers, vendors, sales agents, realtors and all other related personnel and designees of Declarant to the extent authorized or permitted by Declarant to conduct any Development Activities. The conducting of any Development Activities at any time or place, or in any manner, will not constitute any violation of any Governing Documents. WITHOUT LIMITATION OF ANY OTHER PROVISIONS HEREOF, DECLARANT DOES NOT REPRESENT, WARRANT OR GUARANTEE ANY SPECIFIC PERIOD OF TIME OR DATE DURING OR BY WHICH ANY AMENITIES WILL BE PROVIDED, INSTALLED, BECOME OPERATIONAL OR BE COMPLETED, OR BY WHICH CONSTRUCTION OF ANY RESIDENCES AND RELATED IMPROVEMENTS WILL COMMENCE OR BE COMPLETED, OR BY WHICH ANY OTHER DEVELOPMENT ACTIVITIES WILL COMMENCE OR BE COMPLETED.

B5.01.2 **Specifically Included Development Activities.** Without limitation of Section B5.01.1 or any other provisions of the Governing Documents, including this Exhibit "B", Development Activities include all rights, authority, powers, privileges and prerogatives as follows:

(a) to provide for or permit access to the Property by Development Personnel, by prospective purchaser, by real estate brokers or agents and by any other persons which Declarant deems necessary, appropriate or convenience to the conducting of any Development Activities;

(b) to maintain models within the Subdivision;

(c) to have, place and maintain sales and promotional signs, flags, banners and similar promotional devices within the Subdivision, whether or not illuminated;

(d) to conduct from time to time an "open house" and similar events for brokers, agents and other persons which may include without limitation leaving limited access gates (if any) open as hereafter provided;

(e) to use for development, sales and/or promotional purposes or as to any other Development Activities all or any part of any Lot, including the residence or other Improvements located thereon, which is owned by Declarant or an Authorized Builder;

(f) to use during the Development Period for any Development Activities, without charge, any Community Properties;

(g) to permit temporary toilet facilities, sales and construction offices and storage areas to be used in connection with any Development Activities, including usage of garages as sales or construction offices, provided that at or prior to the date of the Initial Sale of a Lot such garage must be fully reconvered to a garage, and any such other Owner or their successors in title will be responsible for completion of the reconversion to any extent the reconversion is not completed as aforesaid;

(h) to permit parking by any Development Personnel at any locations within or in the area of the Subdivision, excluding any Lot after the Initial Sale thereof;

(i), to impose temporary rules, regulations and parking policies and procedures and to designate and post by signage or otherwise "no parking" areas and/or other applicable rules, regulations and procedures as deems necessary or appropriate by Declarant for the conducting of any Development Activities;

(j) to conduct Development Activities during the Development Period on any days and during any hours as deemed necessary or convenient in the sole discretion of Declarant for the conducting of any Development Activities; and

(k) to impose and enforce such rules, regulation and procedures by means of Posted Rules or otherwise as deemed necessary or appropriate by Declarant for the completion of any Development Activities and to avoid hindrance or interference with any Development Activities, including limiting or denying access to areas of the Subdivision, designating temporary dumping sites and maintenance of metal buildings or structures.

B5.01.3 Access Limiting Devices. IF AND TO THE EXTENT THAT ANY PATROL OR ACCESS SERVICES, STRUCTURES OR DEVICES, INCLUDING ANY CONTROLLED ACCESS GATE, GUARDHOUSE AND RELATED STRUCTURES ("ACCESS LIMITING DEVICES"), ARE PROVIDED FOR THE SUBDIVISION, THEN DURING THE DEVELOPMENT PERIOD DECLARANT RETAINS FULL AND SOLE AUTHORITY AS TO AND CONTROL OVER THE SAME, INCLUDING (i) TO DETERMINE THE HOURS, STAFFING AND MANNER OF OPERATION OF ANY AND ALL SUCH ACCESS LIMITING DEVICES, (ii) TO DETERMINE IF AND WHEN ANY ACCESS LIMITING DEVICES WILL BE OR BECOME FUNCTIONAL OR OPERATIONAL, AND (iii) TO DETERMINE IF AND WHEN TO LEAVE ANY CONTROLLED ACCESS GATES OPEN FOR ANY PERIODS OF TIME (OR AT ALL TIMES). DURING THE DEVELOPMENT PERIOD DECLARANT MAY ALSO PERMIT, AND AFTER THE DEVELOPMENT PERIOD THE ASSOCIATION AND THE BOARD MUST ALSO PERMIT AND TAKE ALL NECESSARY ACTIONS TO FACILITATE, ACCESS TO THE SUBDIVISION BY ANY DEVELOPMENT PERSONNEL, BY ANY PROSPECTIVE PURCHASERS, BY ANY SALES BROKERS OR AGENTS AND BY ANY OTHER PERSONS AS DECLARANT DEEMS NECESSARY OR CONVENIENT TO ACCOMMODATE ANY DEVELOPMENT ACTIVITIES.

B5.01.4 Easements. Declarant, Declarant's Related Parties and all Development Personnel are entitled during the Development Period to use all easements set forth in the Declaration and to exercise all rights as to the same for, and Declarant may grant such additional easements and rights regarding the same for ingress, egress and usage for, the conducting of any and all Development Activities as determined by Declarant. In addition, temporary construction easements upon, under, over, across and above all Community Properties and each Lot are reserved and dedicated in favor of Declarant, Declarant's Related Parties and all Development Personnel for purposes of the conducting of any such Development Activities, provided that as to any Lot owned by another Owner after the Initial Sale thereof the provisions of **SECTION 9.03** of the Declaration regarding notice, duration, usage and restoration will apply to any such Development Activities.

B6.01 Amendment of Governing Documents; Changes in Composition of Subdivision.

B6.01.1 General. During the Development Period Declarant reserves the sole and exclusive right without joinder, vote, consent or any other approval of and without notice of any kind to the Association, the Board, the Architectural Reviewer, any Owner or any other Person (i) to adopt, amend, modify, revise or repeal, from time to time and at any time, this Declaration and any other Governing Documents, (ii) to prepare, amend, modify, revise or repeal any Plat covering or to cover the Subdivision, including without limitation elimination, change or

reconfiguration of any Lots, reserves, compensating open space, streets, easements, or any other parts, features, depictions, descriptions, notes, restrictions and any other aspects of any Plat, or any amendments or revisions thereof, (iii) to designate, construct or expand the Community Properties, and to modify, eliminate, discontinue, reconfigure, redesign, re-designate, or in any other manner change the Community Properties, (iv) to grant one or more residential use easements in any part of any reserve in favor of any Owner whose Lot or any part thereof abuts a reserve, in which case the area of land covered by each residential use easement will be appurtenant to and will be subject to all applicable provisions of applicable Governing Documents to the same extent as the applicable abutting Lot, and to all other provisions of the residential use easement grant, (v) to combine with, annex in to and/or to otherwise make a part of the Subdivision any other real property, any part of which is adjacent to, or across any street from, or otherwise located within one-half mile from, any part of the Subdivision as configured at the time of the combination or annexation, (vi) with the consent of the owner thereof, to withdraw or remove any real property from the Subdivision, and (vii) as to any or all of the foregoing, to amend any Governing Documents accordingly.

B6.01.2 Method; Effective Date. Any amendment, modification, revision, repeal, residential use easement, combination, annexation or other matter as provided in this Section may be made by execution by or with the authority of Declarant of the appropriate instrument or instruments, and will be effective from and after the date of Filing of Record of the applicable document or such later date as expressly provided in the applicable document.

B6.01.3 Deemed Consent; Waiver; Declarant as Attorney-In-Fact. By acceptance of any right, title or interest in any Lot or other properties within the Subdivision, including as to any lien or other security interest as to the same, the Association, each Owner and their Related Parties and each holder of a lien or other security interest as to each Lot or other properties thereby (i) consent to all Declarant's rights, authority and prerogatives as set forth in this Section B6.01, (ii) irrevocably designate Declarant as their attorney-in-fact for purposes of consenting to, approving, executing and Filing of Record of any plats and any amendments, modifications and/or replats thereof, and any other instruments deemed necessary or appropriate in Declarant's sole and absolute discretion for the exercise of any or all rights, authority or prerogatives as aforesaid, and (iii) waive and release any and all claims, demands, actions and causes of action whatsoever regarding all of the foregoing.

B7.01 Dispute Resolution: Limitations.

B7.01.1 Dispute Defined. "Dispute" means any claim, demand, action or cause of action, and all rights and remedies regarding the same, claimed or asserted by a "Dispute Claimant" (as hereafter defined) against or adverse to Declarant or to any Related Parties of Declarant ("Declarant Parties") regarding (i) any Development Activities within or regarding the Subdivision, including without limitation the construction, design, maintenance or repair of any Community Properties, (ii) the establishment, operation or management of the Association, including any maintenance, governance, budgetary, financial or any other functions of the Association, and/or any other acts or omissions of the Association, (iii) the construction, operation, application or enforcement of any provisions of, or otherwise arising out of or relating to, the Governing Documents, or to the breach thereof, and (iv) all other matters relating directly or indirectly to any of the foregoing. A "Dispute Claimant" means the Association, the Association's Related Parties and any other Person asserting a Dispute on behalf of, or by, through or under, the Association by derivative action or otherwise.

B7.01.2 Required Preconditions and Procedures.

(a) Before a Dispute Claimant may file any suit or initiate any mediation or arbitration proceedings as to any Dispute, the Dispute Claimant must give written, dated and signed notice (a "**Dispute Notice**") to the Declarant Parties and to any other Person subject to the Dispute. The Dispute Notice must fully identify and describe the Dispute, including in specific detail all incomplete, defective or damaged property and all other matters and conditions regarding the Dispute, and all modifications, maintenance, repairs and any other remedial action required as to the Dispute. The Dispute Notice must be based on one or more written, dated and signed reports from an independent engineer, certified public accountant or other independent professionals qualified to make the report. A copy of each such report which the Dispute Claimant intends to rely upon must be included with the Dispute Notice.

(b) The Dispute Claimant must allow the Declarant Parties and each other Person subject to the Dispute at least ninety days after the Dispute Notice and all applicable reports are received by all such parties to inspect and correct any condition or other matter identified in the Dispute Notice. If any condition or other matter cannot reasonably be corrected within ninety days, then the work thereon must be commenced within ninety days and must thereafter be prosecuted diligently through completion. Any Declarant Parties and any other Person subject to the Dispute may request, and the Dispute Claimant must promptly schedule and fully cooperate in the conducting of, any inspections, testing, examinations or reviews regarding the Dispute Notice. The Declarant Parties or any other Person subject to the Dispute may require the presence at any such inspections, testing, examinations or reviews of any experts the Dispute Claimant intends to rely upon regarding the Dispute Notice, including any experts who prepared any of the reports included with the Dispute Notice. The Declarant Parties or any other Person subject to the Dispute may also require such experts to point out or otherwise specifically identify all incomplete, defective or damaged property and any other matters or conditions regarding the Dispute, and all modifications, maintenance, repairs and any other remedial action required as to the Dispute.

(c) After expiration of all applicable inspection and cure periods as above provided but before the Dispute Claimant may file any suit or initiate any mediation or arbitration proceedings as to any Dispute, the Dispute Claimant must obtain approval as to the same at a special meeting of the Owners by the Owners of not less than fifty-one percent (51%) of the Lots in the Subdivision. Not later than thirty days before the date the special meeting of Owners is held, the Dispute Claimant must give to each Owner, and to the Declarant Parties and to any other Person subject to the Dispute, a written and dated notice of the date, time and place of the special meeting. The notice of the special meeting must be prepared by a qualified attorney as provided in subsection (e). The Declarant Parties and any other Person subject to the Dispute may attend and participate in the special meeting, in person or by agent.

(d) The notice of the special meeting as required by subsection (c) must include copies of all applicable Dispute Notices and all reports as required by subsections (a) and (e), and descriptions of (i) all relief sought regarding the Dispute, (ii) estimated costs of all remedial action, (iii) the anticipated duration of prosecuting the suit and/or mediation or arbitration proceedings, (iv) all steps previously taken by the Dispute Claimant to resolve the Disputes, (v) all attorney's fees, consultant fees, expert witness fees, court costs and any other costs for which the Dispute Claimant may be liable as a result of prosecuting any suit and/or mediation or arbitration proceedings, and the likelihood of success, and (vi) the manner in which the Dispute Claimant proposes to fund the costs of prosecuting the suit and/or any mediation or arbitration proceedings.

(e) As applicable, the notice as required by subsection (c) must be based on a written, dated and signed report from an independent attorney who is qualified to

make the report. The attorney that prepares and signs the report must also be a person who is not (i) the attorney who represents or will represent the Association as to the Dispute, (ii) a member of the law firm of the attorney who represents or will represent the Association as to the Dispute, or (iii) employed by or otherwise affiliated with the firm of the attorney who represents or will represent the Association as to the Dispute.

(f) The provisions of this Section **B7.01.2** are subject to and without limitation of **Sections B7.01.3 Section B10.01.4.**

B7.01.3 Mediation and Binding Arbitration.

(a) Any Declarant Party may, by written request, require that any Dispute be submitted to mediation or binding arbitration to be conducted in the County in which the Subdivision is located. **THE DISPUTE CLAIMANT MUST THEN OBTAIN OWNER APPROVAL AS REQUIRED BY SECTION B7.01.2, FAILING WHICH ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION REGARDING THE DISPUTE WILL BE WAIVED, BARRED, RELEASED AND FOREVER DISCHARGED.** Unless the parties otherwise mutually agree, any binding arbitration must be conducted in accordance with the Construction Industry Arbitration Rules (or substantial equivalent) of the American Arbitration Association, and such rules are incorporated by reference herein. A request for mediation or binding arbitration may be made either during or after the Development Period, and either before or after initiation of any other legal action. If mediation is requested but does not fully resolve any Dispute, then a request may be made by any Declarant Party for binding arbitration as to the Dispute or any unresolved matters as to the same. The decisions of the arbitrator(s) in binding arbitration will be final and conclusive. Judgment may be entered as to any mediation settlement or arbitration award in any court that has jurisdiction as to the same.

(b) **IF ANY DISPUTE CLAIMANT FAILS TO COMPLY WITH ANY REQUEST FOR MEDIATION OR BINDING ARBITRATION, OR TO ATTEND OR OTHERWISE FULLY PARTICIPATE IN GOOD FAITH IN THE MEDIATION OR BINDING ARBITRATION PROCEEDINGS, THEN THE DISPUTE CLAIMANT WILL BE DEEMED TO HAVE WAIVED ANY AND ALL CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION REGARDING ALL DISPUTES RELATED TO THE REQUEST OR THE PROCEEDINGS, AND ALL DECLARANT PARTIES AND ANY OTHER PARTIES TO THE DISPUTE WILL THEREBY BE FULLY RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITIES REGARDING THE SAME.**

(c) Each party to a mediation or binding arbitration must bear its own costs and expenses, including attorney's fees, regarding the mediation or the binding arbitration. Notwithstanding the foregoing, (i) if a party unsuccessfully contests the validity, application, interpretation or scope of mediation or arbitration in a court of law, the non-contesting party must be awarded reasonable attorney's fees and expenses incurred in any such proceedings, or (ii) if a party fails to abide by the terms of a mediation settlement or arbitration award, the party enforcing the settlement or award must be awarded reasonable attorney's fees, costs and expenses incurred as to the same. In addition, if a Dispute is determined to have been groundless, or to have been brought in bad faith or for purposes of harassment, recovery of costs, expenses and reasonable attorney's fees from the party which asserted the groundless Dispute must be granted in the applicable mediation settlement or arbitration award. **"Groundless"** means no basis in fact, or not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law.

B7.01.4 Notice of Dispute Required; Limitations. NOTICE AS PROVIDED IN THIS SECTION B7.01 OF ANY DISPUTE MUST BE GIVEN TO ALL DECLARANT PARTIES

NOT LATER THAN ONE HUNDRED TWENTY DAYS AFTER, AND SUIT REGARDING ANY DISPUTE MUST BE FILED IN A COURT OF COMPETENT JURISDICTION NOT LATER THAN TWO YEARS PLUS ONE DAY AFTER, THE DATE ANY CLAIM OR CAUSE OF ACTION REGARDING THE DISPUTE ACCRUES. ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION REGARDING ANY DISPUTE AS TO WHICH NOTICE IS NOT GIVEN OR AS TO WHICH SUIT IS NOT FILED AS AFORESAID IS IN EITHER CASE THEREAFTER WAIVED, BARRED, RELEASED AND FOREVER DISCHARGED.

B7.01.5 Other Disputes. THE PROVISIONS OF THIS SECTION B7.01 ALSO APPLY TO ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION AGAINST OR ADVERSE TO ANY DEDECLARANT PARTIES BY AN OWNER, TENANT OR THEIR RELATED PARTIES WHO IS NOT A DISPUTE CLAIMANT, INCLUDING THAT AN OPPORTUNITY TO CURE MUST BE PROVIDED IN ACCORDANCE WITH SECTION 7.01.2(b) AND THAT WRITTEN NOTICE OF ANY DISPUTE MUST BE GIVEN AND SUIT MUST BE FILED AS PROVIDED IN SECTION B7.01.4 BUT EXCLUDING THE REQUIREMENTS REGARDING OWNER APPROVAL AS TO FILING OF SUIT OR INITIATION OF MEDIATION OR ARBITRATION PROCEEDINGS.

B8.01 Limitation of Liability; No Impairment.

B8.01.1 DECLARANT MAY EXERCISE ANY AND ALL RIGHTS, AUTHORITY, POWERS, PRIVILEGES AND PREROGATIVES, EXPRESS OR IMPLIED, AS PROVIDED IN OR PERMITTED BY THE GOVERNING DOCUMENTS IN DECLARANT'S SOLE AND ABSOLUTE DISCRETION. ANY OR ALL DIRECTORS, OFFICERS OR ARCHITECTURAL REVIEWER APPOINTED OR DESIGNATED BY DECLARANT MAY BE AGENTS, SERVANTS, EMPLOYEES OR OTHER RELATED PARTIES OF DECLARANT, ANY OF WHOM MAY ACT IN DECLARANT'S SOLE INTEREST AND NONE OF WHOM OWE ANY DUTY TO ANY OTHER PERSON OR ORGANIZATION. ABSENT INTENTIONAL AND WILLFUL MISCONDUCT, DECLARANT, ITS RELATED PARTIES AND ALL DEVELOPMENT PERSONNEL ARE HEREBY RELEASED FROM ANY CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION AND ANY AND ALL LIABILITY WHATSOEVER TO ANY OWNER, TENANT OR ANY OTHER OCCUPANT, OR TO THE ASSOCIATION, OR TO ANY RELATED PARTIES OF ANY OF THE FOREGOING, OR TO ANY OTHER PERSON FOR ANY ACTS OR OMISSIONS REGARDING ANY OF THE FOREGOING, OR THE CONDUCTING OF ANY DEVELOPMENT ACTIVITIES.

B8.01.2 NOTWITHSTANDING ANY OTHER PROVISIONS OF ANY GOVERNING DOCUMENTS, NO PROVISIONS OF THIS EXHIBIT "B", AND NO OTHER RIGHTS OR LIMITATIONS OF LIABILITY APPLICABLE TO DECLARANT PURSUANT TO ANY GOVERNING DOCUMENTS, MAY BE AMENDED, MODIFIED, CHANGED OR TERMINATED EITHER DURING OR AFTER TERMINATION OF THE DEVELOPMENT PERIOD WITHOUT THE PRIOR WRITTEN CONSENT OF DECLARANT.

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e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees \$392.00

RECORDERS MEMORANDUM

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

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Stan Stanart

COUNTY CLERK
HARRIS COUNTY, TEXAS

RP-2018-571776