

**Declarations-CC&Rs**  
**Enclave at Willow Park CA,Inc.**

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**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
THE ENCLAVE AT WILLOW PARK  
(WESTBURY ESTATES)**

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

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**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 SECTIONS 2.13 & 10.05), (iii) PRIVATE DRIVEWAYS FOR PARKING AS TO INDIVIDUAL LOTS WILL NOT BE AVAILABLE AS TO MOST LOTS, AND STREET, SHARED DRIVE AND OTHER PARKING BY OWNERS, OCCUPANTS AND GUESTS IS OTHERWISE LIMITED AND HIGHLY REGULATED (SEE SECTIONS 7.03 & 8.01.2), (iv) 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, (v) DECLARANT RETAINS SUBSTANTIAL RIGHTS UNDER THIS DECLARATION, INCLUDING AS PROVIDED IN EXHIBIT "B" TO THIS DECLARATION AND ESPECIALLY DURING THE DEVELOPMENT PERIOD, THE UNILATERAL RIGHT TO SET RATES FOR REGULAR ASSESSMENTS AND IMPOSE SPECIAL ASSESSMENTS, AND, WITHOUT NOTICE TO OR CONSENT OF ANY OWNER, TO ANNEX ADDITIONAL PROPERTIES INTO AND/OR TO WITHDRAW PROPERTIES FROM THE SUBDIVISION, TO AMEND ANY PLAT, AND TO AMEND THIS DOCUMENT AND ANY OTHER "GOVERNING DOCUMENTS," AND (vi) SECTION B10.01 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 B10.01.

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

RP-2017-42116

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CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
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A RESIDENTIAL SUBDIVISION IN HARRIS COUNTY, TEXAS

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EXECUTION  
 ACKNOWLEDGMENTS  
 MORTGAGEE/LIENHOLDER CONSENT

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

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**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
THE ENCLAVE AT WILLOW PARK  
(WESTBURY ESTATES)**

A RESIDENTIAL SUBDIVISION IN HARRIS COUNTY, TEXAS

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

WHEREAS, the undersigned **WEEKLEY HOMES, LLC**, a Delaware limited liability company authorized to do business in Texas (the "Declarant" herein), joined herein by the undersigned **CND-Westbury Estates, LLC**, a Texas limited liability company, are the current owners of all that certain real property located in Harris County, Texas, as more particularly described in **Section 1.01** hereof, and the said owners and Declarant desire to create and carry out a general and uniform plan for the improvement, development, maintenance, use and continuation of a residential community on the property as set forth in **Article I** hereof for the mutual benefit of the Owners and their successors in title.

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 are for the purposes of enhancing and protecting the value, desirability and attractiveness of the said properties. These covenants and restrictions will run with the said real property which property will be conveyed subject to the covenants, conditions, restrictions, liens, charges and easements as herein set forth, and be binding upon all parties having or acquiring any right, title, or interest in the said real property or any part thereof, their heirs, predecessors, successors and assigns, and will 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 EXHIBIT "A" TO THIS DECLARATION).**

RP-2017-42116

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:

WESTBURY ESTATES, an addition in Harris County, Texas according to the map or plat thereof filed under Clerk's File No. RP-2016-114507, Official Public Records of Real Property of Harris County, Texas, and recorded in Clerk's Film Code No. 677513, Map records of Harris County, Texas.

SECTION 1.02 Annexation; Deannexation. Without limitation of **Section B9.01** of Exhibit "B" to this Declaration, 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 deannex 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 deannex and remove any real property, including any Lot, from the Subdivision. Any such annexation or deannexation must be evidenced by filing of, and is effective from the date of filing of, an amendment of this Declaration evidencing the annexation or deannexation in the Official Public Records of Real Property of Harris County, Texas, or such later date as stated in the amendment. Any annexation, when made, will automatically extend the jurisdiction, functions, duties and membership as applicable of Declarant, the Association (including the Board) and the ACC to the real property or properties added or annexed.

## **ARTICLE II DEFINITIONS**

Unless the context otherwise prohibits 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:

SECTION 2.01 "Architectural Control Committee" or "ACC" means the committee established pursuant to **Article IV** of this Declaration.

SECTION 2.02 "Architectural Guidelines" means (i) minimum construction 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 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.

SECTION 2.03 "Association" means **The Enclave at Willow Park 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.

SECTION 2.04 "Authorized Builder" means those builders (whether one or more) which have been approved in advance in writing by Declarant, in the sole and absolute discretion of Declarant, as provided in **Section B2.01** of Exhibit "B" hereto.

SECTION 2.05 "Board" or "Board of Directors" means the Board of Directors of the Association.

SECTION 2.06 "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 Declaration or by the Board. The Bylaws may thereafter be amended by Declarant as provided herein or in the Bylaws, or by the Board as provided in the Bylaws. In the event of any conflict between the Bylaws and this Declaration, the Declaration controls.

SECTION 2.07 "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, BUT 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 OF DECLARANT DURING THE DEVELOPMENT PERIOD AND OF THE BOARD THEREAFTER FROM TIME TO TIME AND AT ANY TIME TO ADD TO, MODIFY, REMOVE DISCONTINUE, SELL OR DISPOSE OF ANY OF THE SAME AS PROVIDED HEREIN OR IN ANY OTHER GOVERNING DOCUMENTS:

2.07.1 all common areas so designated herein or by a Plat intended for the common use of Owners, including without limitation Restricted Reserves "A" through "D" inclusive, as so designated on the Initial Plat;

2.07.2 all amenities and improvements, if any, upon any common areas;

2.07.3 all "Shared Drives" as hereinafter defined;

2.07.4 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 structures or devices, and all of the Subdivision Fencing (as defined in **Section 8.06.5**), including any Subdivision main entry fences, walls and/or entry and other identification monuments;

2.07.5 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 in or permitted by **Section 8.04**, if any;

2.07.6 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 Community Properties, if any, including entry, access and exit areas regarding same;

2.07.7 any garbage or recycling collection, cable or satellite television, utilities, including any street or Shared Drive lighting, and any other services provided by or through the Association, and any structures or devices related thereto; and

2.07.8 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.

SECTION 2.08 "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.

SECTION 2.09 "Declarant Control Period" means the period of time 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 this Declaration in the Official Public Records of Real Property of Harris County, Texas, and ends upon occurrence of the Declarant Control Transfer Date. The Development Period and the Declarant Control Period are independent periods which may or may not end on the same date.

SECTION 2.10 "Declarant Control Transfer Date" means the date of occurrence of the earlier of (i) election by Owners or appointment by Declarant of at least one Owner Director at or after the First Annual Election Meeting as provided in Exhibit "B" to this Declaration, or (ii) 90 days after the First Annual Election Meeting Date.

SECTION 2.11 "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements for The Enclave at Willow Park (Westbury Estates), and all lawful amendments thereto.

SECTION 2.12 "Development Period" means the period of time beginning on the date of recordation of this Declaration in the Official Public Records of Real Property of Harris County, Texas 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 any of the following events:

2.12.1 180 days after the Initial Sale of the last Lot in the Subdivision; or

2.12.2 upon the date of filing in the Official Public Records of Real Property of Harris County, Texas 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.

SECTION 2.13 "Electronic Means".

2.13.1 Defined. "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 this Declaration or other applicable 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 this Declaration or other applicable 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.

2.13.2 Owner Obligations. IT IS THE OBLIGATION OF EACH OWNER AND THEIR TENANT(S) TO OBTAIN AND MAINTAIN CONFIRMATIONS OF RECEIPT OF ALL NOTICES AND OTHER COMMUNICATIONS FROM THE ASSOCIATION OR DECLARANT BY ELECTRONIC MEANS, AND TO PROVIDE THE SAME TO THE ASSOCIATION OR DECLARANT UPON REQUEST. 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 THIS DECLARATION, INCLUDING **SECTION 10.05** HEREOF, AND IN ACCORDANCE WITH OTHER APPLICABLE GOVERNING DOCUMENTS.

SECTION 2.14 "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.

SECTION 2.15 "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 Owners pertaining thereto, or to the Association, the Board or the ACC, 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 and/or ACC, and all lawful amendments to any of the foregoing.

SECTION 2.16 "Initial Sale" means when referenced as to any Lot 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 conveyance of record of title as to the Lot to a Person other than Declarant or an Authorized Builder.



SECTION 2.17 "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 otherwise designated as or included in the Community Properties by Declarant at any time before or during the Development Period), and does not include any commercial or other unrestricted reserves so designated by a Plat, if any.

SECTION 2.18 "Member" means every Person who is an Owner and holds a membership in the Association. Every Member which is not a natural person must designate a representative of such entity who is a natural person as provided in the Association's Bylaws.

SECTION 2.19 "Owner" means, whether one or more Persons (i) the owner of record according to the Official Public Records of Real Property of Harris County, Texas 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.

SECTION 2.20 "Owner Director(s)" means one or more Directors elected by Owners, or an Owner appointed by Declarant to serve on the Board of Directors.

SECTION 2.21 "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.

SECTION 2.22 "Plat" means the initial map or plat of the Subdivision as described in **Section 1.01** which initial map or plat is 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, hereafter filed in the Map Records of Harris County, Texas, and all lawful modifications, amendments and/or replats of any of the foregoing.

SECTION 2.23 "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 ACC at any given pertinent time and from time to time, including as to each particular 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 this Declaration and other applicable Governing Documents, and with applicable governmental laws, ordinances and regulations.

SECTION 2.24 "Regulated Modification" means (without implication that any particular matter is permitted or prohibited by this Declaration and without limitation as to **Article IV** hereof) the commencement, placement, construction, reconstruction or erection on, below or above the surface of any Lot of, or modification, alteration, or addition to, any building,

structure or 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.

SECTION 2.25 "Related Parties" means and applies as follows:

2.25.1 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.

2.25.2 Association, Board, ACC and Declarant. Related Parties of the Association, the Board, the ACC and Declarant include (i) as to the Association, the Board and the ACC, (ii) as to Declarant, its affiliated companies, subsidiaries, partners and co-venturers ("Affiliated Entities"), and as to Declarant and the Affiliated Entities, their "affiliates" and all of their "owners" and "governing persons" (as defined in the Texas Business Organizations Code) as to any of the same, 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.

SECTION 2.26 "Rules and Regulations" means all rules, policies and procedures, including all rules, policies or procedures regarding or as permitted or required by Chapters 202 or 209 of 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.

SECTION 2.27 "Shared Drive" means all private streets, alleys and private roadway access easements within the Subdivision, including in particular but without limitation each of the private streets designated on the Initial Plat as "Rosemont Trace", "Brancott Way", "Concha Lane" and "Hess Lane", unless and until any private street or any part thereof is dedicated to the public;

SECTION 2.28 "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**  
**THE ENCLAVE AT WILLOW PARK 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 this Declaration and all other 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 herein or in other 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 this Declaration and other 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 this Declaration, the Bylaws and other applicable Governing Documents. Unless otherwise expressly required by law, and subject to all Declarant rights and authority as provided in other applicable provision of this Declaration or other Governing Documents, the Board of Directors will exercise and have all rights, powers, authority 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 AND REPLACE ANY OF THE SAME UNTIL EXPIRATION OR TERMINATION OF THE DECLARANT CONTROL PERIOD AS PROVIDED IN SECTION B2.01 OF EXHIBIT "B" TO THIS DECLARATION 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 this Declaration and other applicable Governing Documents. The Association is entitled to rely on the Official Public Records of Real Property of Harris County, Texas 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)**, for every one vote outstanding in favor of any Owner other than Declarant, Declarant will have four additional votes 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 ACC must also keep and maintain records evidencing the final decision(s) of the ACC 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. The Association's initial Association will be adopted by Declarant. Declarant during the Development Period and the Board at any time may adopt and amend such documents inspection and copying policies, documents retention 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.

(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 Security Services. The Association may from time to time engage in activities or provide Community Properties, including activities, 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 otherwise monitor activities within the Subdivision (including Community Properties), and may from time to time provide information through newsletters or otherwise regarding same (all such matters and all activities, services or devices of a similar nature or incident thereto herein referred to as, "Security Services"). Without limitation of **Section 3.06.1**, each Owner and their tenants covenant and agree regarding any and all security issues and/or criminal activities and/or conduct and/or any other "Criminal Matters" (as defined below) within or outside the Subdivision, and as to any and all Security Services provided directly or indirectly by or through the Association as follows:

(a) SECURITY IS THE SOLE RESPONSIBILITY OF LOCAL LAW ENFORCEMENT AGENCIES AND INDIVIDUAL OWNERS AND THEIR TENANTS, AND

THEIR RESPECTIVE RELATED PARTIES. Security Services may be provided at the sole discretion of the Board of Directors. The providing of any Security Services at any time will in no way prevent the Board from thereafter discontinuing, or from temporarily or permanently modifying, terminating or removing, any Security Services, in whole or in part.

(b) Any third party providers of Security Services are independent contractors, the acts or omissions of which are not imputable to Declarant, the Association or any of their Related Parties.

(c) Providing of any Security 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 or undertaking that any Security Services will be continued, or (iii) a representation, guarantee or warranty that the presence of any Security Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause. 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 CONDUCT OF ANY KIND OR AS TO ANY OTHER MATTERS REGARDING OR RELATING TO SECURITY SERVICES, PAST OR PRESENT.

(d) DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES ARE NOT LIABLE FOR, AND EACH OWNER, THEIR TENANTS, AND THEIR RESPECTIVE RELATED PARTIES, MUST INDEMNIFY, KEEP INDEMNIFIED AND HOLD DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES HARMLESS AT ALL TIMES FROM, ANY INJURY, LOSS OR DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION ANY INJURY OR DAMAGES CAUSED BY THEFT, BURGLARY, TRESPASS, ASSAULT, VANDALISM OR ANY OTHER CRIME, TO ANY PERSON OR PROPERTY ARISING, DIRECTLY OR INDIRECTLY, FROM THE PROVIDING OR FAILURE TO PROVIDE ANY SECURITY SERVICES, OR THE DISCONTINUATION, MODIFICATION, DISRUPTION, DEFECT, MALFUNCTION, OPERATION, REPAIR, REPLACEMENT OR USE OF ANY SECURITY SERVICES.

(e) DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES, HAVE NO DUTY, OBLIGATION OR RESPONSIBILITY OF ANY KIND WHATSOEVER TO WARN, ADVISE OR IN ANY OTHER MANNER INFORM ANY OWNERS, TENANTS, OR THEIR RELATED PARTIES, OR ANY OTHER RESIDENTS OR OCCUPANTS OF ANY LOT OR COMMUNITY PROPERTIES, OR ANY LAW ENFORCEMENT AGENCY, OR ANY OTHER PERSON AS TO ANY ALLEGED, SUSPECTED OR KNOWN CRIMINAL ACTIVITIES OF ANY KIND, CRIMINAL HISTORY OR BACKGROUND OF ANY PERSON, OR CRIMINAL INVESTIGATIONS BY LAW ENFORCEMENT AGENCIES OR BY ANY OTHER PERSON (ALL SUCH MATTERS, ACTIVITIES AND INVESTIGATIONS HEREIN REFERRED TO AS "CRIMINAL MATTERS"), regardless of whether the Criminal Matters involve the Subdivision, other areas in the vicinity or any other place or lands. The Association may (but has no obligation to) from time to time disclose and/or transmit information concerning Criminal Matters to Owners, tenants, and any other occupants of Lots and/or any Community Properties, to any law enforcement agencies, and to any other Person which the Association's officers, directors, agents, employees and other Related Parties in their sole discretion deem advisable. Each Owner and tenant by acceptance of any right, title or interest in any Lot, and every Owner, tenant and occupant of a Lot or any Community Properties by virtue of such occupancy, hereby

consents, on their behalf and on behalf of their respective Related Parties, and on behalf of all other Persons coming upon a Lot or any Community Properties at their invitation, or with their consent or permission, to any such disclosure and/or transmittal of information. 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 Matters then involved or as to any other current or future Criminal Matters. All other provisions of this Section apply to any disclosure and/or transmittal of information, and to any failure to disclose and/or transmit information, concerning Criminal Matters, including in particular but without limitation, the provisions of **Section 3.06.2(d)** regarding the indemnity obligations of Owners, their tenants and their respective Related Parties.

**3.06.3 Liability Arising From Conduct of Owners.** EACH OWNER, THEIR TENANTS, AND THEIR RESPECTIVE RELATED PARTIES MUST INDEMNIFY AND KEEP INDEMNIFIED, AND HOLD HARMLESS, DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES FROM AND AGAINST ALL CLAIMS, DAMAGES, SUITS, JUDGMENTS, COURT COSTS, ATTORNEY'S FEES, ATTACHMENTS AND ALL OTHER LEGAL ACTIONS CAUSED THROUGH THE WILLFUL OR NEGLIGENT ACT OR OMISSION OF AN OWNER, THE OWNER'S TENANTS, OR THEIR RESPECTIVE RELATED PARTIES.

**3.06.4 Subsequent Statutory Authority.** If the Texas Business Organizations Code, Texas Non-Profit Corporation Law, Texas Miscellaneous Corporation Laws Act, Chapter 84 of the Texas Civil Practice and Remedies Code or any other applicable statute, 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 right to indemnification will be expanded to the fullest extent permitted by such construction or amendment.

**3.06.5 No Impairment.** Any repeal, amendment or modification of this **Section 3.06** may not adversely affect any rights or protection existing at the time of the amendment.

#### **ARTICLE IV ARCHITECTURAL CONTROL COMMITTEE**

**SECTION 4.01 Organization; Compensation.** There is hereby established an Architectural Control Committee (herein sometimes referred to as the "ACC"). DECLARANT WILL ACT AS THE ACC (AND AS THE DESIGNATED REPRESENTATIVE OF THE ACC) DURING THE DEVELOPMENT PERIOD. Thereafter, the Board of Directors will act as the ACC. The act of a majority of the members of the ACC constitutes an act of the ACC; provided, the ACC may from time to time designate any one of its members to act in its stead. No person serving on the ACC is entitled to compensation for services performed, but may be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board of Directors.

**SECTION 4.02 Function and Powers.**

**4.02.1 Submission of Plans Required.** No Regulated Modification may be commenced, constructed, erected, placed, maintained or made 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 ACC as to

compliance with applicable Architectural Review Criteria as set forth in **Section 4.02.3**. One complete set of plans and specifications, and copies of all required permits and any other approvals required by any governmental entity, when applicable, must be submitted with each request for approval unless a greater number is required by applicable Architectural Guidelines. Any plans and specifications to be submitted must specify, as applicable and in such detail and form as the ACC may reasonably require:

(a) the location upon the Lot or within the Subdivision where the Regulated Modification will occur or be placed;

(b) the dimensions, nature, kind, shape, height, and color scheme of and all materials to be used in connection with the Regulated Modification;

(c) appropriate information concerning structural, mechanical, electrical, plumbing, grading, paving, decking and landscaping details; and

(d) intended uses.

#### 4.02.2 Architectural Guidelines; Fees.

(a) Declarant during the Development Period and the ACC at any time may, from time to time adopt, modify and delete Architectural Guidelines applicable to the Subdivision, including Lots and Community Properties, 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 reasonably anticipated to cover administrative costs, fees for architectural, engineering, construction, legal or other expert advice or consultation, 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 ACC without the necessity for adoption of Architectural Guidelines as to the same.

(b) Architectural Guidelines are of equal dignity with, and are enforceable in the same manner as, the provisions of this Declaration, provided that (i) such Architectural Guidelines may not be deemed a waiver, modification, or repeal of any of the provisions of this Declaration, and (ii) such Architectural Guidelines may not be enacted retroactively except that all repairs, modifications or maintenance performed subsequent to adoption must be performed in such manner as to bring the Regulated Modification, so far as practicable, in compliance with all then applicable Architectural Guidelines.

4.02.3 Architectural Review Criteria. The ACC must evaluate all submitted applications for ACC approval on the individual merits of the particular application, and based on evaluation of the compatibility of the proposed Regulated Modification with Prevailing Community Standards (including compliance with this Declaration and all other applicable Governing Documents) as of the date of submission of an application. The ACC must also use reasonable efforts to achieve consistency in the approval or disapproval of specific types of Regulated Modifications. To this end, consideration will be given to (but the ACC is not bound by) similar applications for architectural approval and the decisions and actions of the ACC with regard thereto.



4.02.4 Responses; No Waiver or Estoppel. The ACC has full and complete authority to approve, conditionally approve or disapprove any request for ACC approval in accordance with **Section 4.02.3**, and its judgment is final and conclusive. In the event the ACC fails to approve or disapprove a properly submitted and completed request for ACC approval within thirty days from the date such request is received by the ACC, then ACC approval will not be required. EXCEPT FOR COMPLIANCE WITH THE ACC APPROVAL PROVISIONS OF THIS ARTICLE IV, NO APPROVAL (EXPRESS OR IMPLIED) OR CONDITIONAL APPROVAL BY THE ACC AND NO OTHER ACTION OR OMISSION OF THE ACC WILL EVER CONSTITUTE A WAIVER AS TO ANY OTHER PROVISIONS OF THIS DECLARATION OR PRECLUDE BY ESTOPPEL OR OTHERWISE FULL ENFORCEMENT THEREOF.

SECTION 4.03 Variances. Declarant during the Development Period or the Board thereafter may grant specific variances to Architectural Guidelines 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 or repeal of any of the provisions of this Declaration or other Governing Documents except for the limited purpose of and to the extent of the specific variance expressly granted. A variance may be granted only upon specific findings (a) 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 (b) 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 Control Committee. The ACC is not required to maintain records of any of its meetings. The ACC must keep and maintain records evidencing the final decision(s) of the ACC regarding all requests for approval and requests for variance for not less than four years. The ACC 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 Liability of Architectural Control Committee. Except as otherwise expressly provided in this Declaration, the Association, the Board, the ACC, 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 actions or failure to act or in connection with any approval, conditional approval or disapproval of any application for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval of an application or related plans or specifications 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 legal requirements, or as to any matters relating to the health, safety, workmanship or suitability for any purpose of the Regulated Modification. In particular but without limitation of the foregoing, each Owner is wholly and solely responsible for compliance with all building codes and requirements of, and all permitting and other requirements of, any governmental entity as applicable to the Owner's Lot. No approval, conditional approval or any other act or decision of the Association, the Board, the ACC or any of their Related Parties 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. 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 to the Association regular or annual assessments, special assessments and specific assessments, all as herein set forth.

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 governmental entity), (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 this Declaration and other Governing Documents, and (vii) the doing of any other thing necessary or desirable in the opinion of Declarant during the Development Period or of the Board in the furtherance of or for accomplishment of any of the foregoing. The judgments of Declarant during the Development Period 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) 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, 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, 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 2016 per Lot (and continuing during 2016 and thereafter unless and until modified as herein provided) is ONE THOUSAND THREE HUNDRED FIFTY AND NO/100 DOLLARS (\$1,350.00) 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 DEVELOPMENT PERIOD, DECLARANT IS ENTITLED 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 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 same will be payable annually, semi-annually, quarterly or monthly. Written notice must be given to 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 VOTE OR APPROVAL OF ANY OWNER; PROVIDED, AT LEAST THIRTY DAYS WRITTEN NOTICE MUST BE GIVEN TO THE OWNERS OF ALL LOTS 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 Types. Specific assessments must be assessed against individual Lots and the Owner(s) thereafter at the time liability for same accrues as follows:

(a) Utility and Other Services. Assessments for water (and related water and/or storm/sanitary sewer services, if included therein), assessments for trash collection services as permitted or provided herein, and assessments for other utilities and/or other services provided by or through the Association, if any, to some but less than all Lots, or as to which variances among the Lots in costs or other factors as to providing of the utilities and/or services reasonably require separate assessment, will be separately and specifically assessed to each Lot and to the Owner of each such Lot as provided in this Section.

(b) Capitalization Fee. At the time of closing on the sale of each Lot, beginning with the Initial Sale of each Lot, and at the time of closing on each

subsequent sale of the Lot, the purchaser must pay to the Association a "Capitalization Fee" as provided in this Section.

(c) 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.

(d) 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.

(e) 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 this Declaration or other 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.

(f) Other Obligations (Including Transfer and ACC Fees) . All other monetary obligations established by or pursuant to this Declaration or other 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.

(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 THIS DECLARATION AND ALL OTHER APPLICABLE GOVERNING DOCUMENTS.

(b) Utility Assessment. IN ADDITION TO ANY OTHER ASSESSMENTS DUE AND PAYABLE AS HEREIN PROVIDED, THE OWNER OF EACH LOT MUST PAY TO THE ASSOCIATION AS A SPECIFIC ASSESSMENT A UTILITY (WATER) ASSESSMENT TO COVER COSTS AND EXPENSES INCURRED BY THE ASSOCIATION TO PROVIDE TO THE SUBDIVISION AND, AS APPLICABLE, TO EACH OWNER'S LOT AS

PROVIDE HEREIN, WATER (INCLUDING AS TO STORM/SANITARY CONVEYANCE SYSTEMS, AS APPLICABLE), WASTE DISPOSAL (INCLUDING PRIVATE TRASH COLLECTION SERVICES, AS APPLICABLE), FIRE HYDRANTS AND RELATED FACILITIES AND SERVICES, AND REGARDING ALL MAINTENANCE, OPERATION, REPAIR OR REPLACEMENT AS TO THE SAME. The foregoing included without limitation additional utility or other special services as may hereafter be approved as herein provided, if any. Determinations by Declarant during the Development Period and the Board thereafter as to facilities and services as 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 during the Development Period and the Board thereafter. The utility assessment 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 of assessments, as the case may be, 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 during the Development Period or the Board at any time may 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 during the Development Period or the Board thereafter. 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 TWENTY-FIVE AND NO/100 DOLLARS (\$1,025.00) PER LOT PER YEAR, AND IS DUE AND PAYABLE ANNUALLY, IN ADVANCE, ON THE FIRST DAY OF JANUARY OF EACH CALENDAR YEAR.

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 of Houston, Texas, or other government or quasi-governmental entity, as available, and as otherwise determined by Declarant during the Development Period or the Board thereafter. 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 of Houston, Texas, and/or in accordance with such contracts and agreement as from time to time entered by Declarant during the Development Period 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 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 by Declarant during the Development Period, and may be approved thereafter by majority vote of the Owners at any special meeting of Owners called for such purpose. NOTICE OF APPROVAL OF ANY SUCH ASSESSMENT MUST BE FILED IN THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF HARRIS COUNTY, TEXAS.

5.06.5 Facilities Maintenance and Water Usage.

(a) General. All toilets, faucets (including outside faucets), sinks, dishwashers, washing machines and all other plumbing, water and sewer related facilities which service a Lot and any improvements thereon, including all Owner Utilities as provided in **Section 6.02.3**, must be regularly inspected and property maintained at all times to prevent water leakage, excess water usage and any other waste of water. Nothing is permitted to be done and no condition is permitted to exist which may or does cause water leakage, excess water usage or 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 this Section may or does exist, the Board may install, or require the Owner of the applicable Lot to install, 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 water leakage, excess water usage and/or any other waste of water. REGARDLESS OF NEGLIGENCE, EACH OWNER IS OBLIGATED TO PAY, AS A SPECIFIC ASSESSMENT, ALL COSTS, EXPENSES AND ANY OTHER DAMAGES WHICH ARE ATTRIBUTED TO THE OWNER'S LOT REGARDING ANY WATER LEAKAGE, EXCESS WATER USAGE OR WASTE OF WATER, EITHER TO THE ASSOCIATION AS TO ANY SUCH COSTS, EXPENSES OR DAMAGES INCURRED BY THE ASSOCIATION, OR DIRECTLY TO ANY OWNER AS TO ANY SUCH COSTS, EXPENSES OR DAMAGES INCURRED BY ANY OWNER.

(b) In-Ground Swimming Pools. If an in-ground swimming pool is installed on a Lot, the swimming pool must be equipped with a separate water line through which all water for the swimming pool must be provided, and a submeter must be connected to the water line to accurately monitor all water usage for the swimming pool. The Owner of the applicable Lot must read the submeter and provide the same to the Association on a monthly basis, and the Owner must provide access to the Association for verification as to all readings of the submeter at least quarterly and at any other time upon not less than three business days' notice from the Association to the applicable Owner. Each Owner must pay as a specific assessment all costs for water usage regarding the Owner's in-ground swimming pool within ten days after notice thereof is given to the applicable Owner or such longer period as stated in the notice. Such costs will include all costs for water as to the in-ground swimming pool, and may include additional administrative costs as to monitoring, invoicing and other administrative costs as to the same. Without limitation of other applicable provisions hereof the Board is specifically authorized to adopt and amend Rules and Regulations regarding regulation, monitoring and water usage charges applicable to in-ground swimming pools, including amendment thereby as to the foregoing periods for readings as to submeters.

5.06.6 Capitalization Fees. At the time of closing on the 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.

5.06.7 Payment; Waiver. Specific assessments are due and payable 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, the Association may, but is not required to, from time to time prepare and file in the Official Public Records of Real Property of Harris County, Texas, written notice of default in payment of assessments applicable to one or more Lots, 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 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 recorded in



the Official Public Records of Real Property of Harris County, Texas, 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; provided, the maximum period of acceleration may not exceed twelve months after the first day of the month following the month in which notice of default and acceleration is given. All such accelerated assessments are deemed to be specific assessments as to the applicable Lot and Owner thereof.

(b) Suspension of Services. To the fullest extent allowed by law, 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, to (i) receive any and all services provided by the Association to the applicable Lot and any improvements thereon, and/or (ii) 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 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 this Declaration or other 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. Without limitation of any other provisions of this Declaration or any other Governing Documents, Declarant during the Development Period or the Board thereafter are hereby specifically authorized to amend any part of this **Section 5.08** in any manner deemed necessary or appropriate as regarding or to conform to applicable provisions or requirements of the Texas Property Code and/or applicable rules pertaining hereto 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 Revival of Assessment Lien. The Association's assessment lien is automatically revived as to any Owner who reacquires ownership of the applicable Lot within Subdivision within two years after the Discharge Date (as defined in the immediately preceding Section) to the same effect as if none of the events causing the Discharge Date to occur had occurred if ownership is reacquired from the purchaser at foreclosure, the grantee under the deed in lieu of foreclosure, or any successor in title to such purchaser or grantee and the reacquisition of ownership constitutes a fraudulent transfer under Chapter 24 of the Texas Business and Commerce Code or under any other state or federal statutes or laws.

5.09.3 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.

5.09.4 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 ACC, or any of their Related Parties, whether or not required under this Declaration or other 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 ACC, or any of their Related Parties, or (iv) by reason of any action taken by Declarant, the Association, the Board, the ACC, or any of their Related Parties, to comply with any law, ordinance, or any order or directive of any governmental authority, or pursuant to any judgment or order of a court of competent jurisdiction.

5.09.5 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 during the Development Period and the Board at any time may adopt and amend any such assessment collection policies as may be deemed to be necessary or appropriate.

SECTION 5.10 Declarant Authority and Exemption as to Assessments. NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF, ALL PROVISIONS SET FORTH IN EXHIBIT "B" HERETO APPLY REGARDING DECLARANT'S AUTHORITY AND EXEMPTIONS AS TO ASSESSMENTS.

**ARTICLE VI**  
**MAINTENANCE; CASUALTY LOSSES**

SECTION 6.01 Association Maintenance Responsibilities.

6.01.1 General Association Maintenance. 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.

#### 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 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.

(d) The Board is specifically authorized to amend any provisions of this Section regarding the Common Water/Sewage Systems at any time by adoption of applicable Rules and Regulations.

#### 6.01.3 Lawn/Landscaping Maintenance.

(a) Subject to the below provisions, the Association will provide general and routine lawn and landscape maintenance covering all yard area within each Lot. Subject to the below provision, the aforesaid maintenance will include the following: (i) cut and edge the lawn, (ii) weedeat, trim and generally maintain beds, and (iii) trim and generally maintain shrubs and small trees up to six feet (6') in height.

(b) Each Owner must provide proper access for all lawn and landscape maintenance by the Association. Any Owner who does not provide proper access must pay as a specific assessment all increased costs or expenses caused thereby, directly or indirectly. In addition, and without limitation of the Association's right to require providing of proper access, the Association may elect not to provide any or all lawn or landscape

maintenance due to lack of proper access in which case the applicable Owner must promptly and properly perform the maintenance at such Owner's sole cost and expense.

(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 termites, carpenter bees or any similar type of wood infestation or other infestations not specific to ordinary landscape maintenance (such as, for example but without limitation, treatment or control as to wasp or bee hives, mice, rats, squirrels or any other type of rodent, vermin or pests), (ii) maintenance of any exotic landscaping as determined by the Board (whether or not approved), (iii) maintenance, repair or replacement, of any lawn or landscaping irrigation system, (iv) maintenance, treatment or replacement of any lawn or landscape improvements due to disease, freezing, hail, hurricane or any other storm, or due to any other weather conditions, or which may be caused or necessitated by any other cause, casualty or condition, 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) 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 THIS SECTION, THIS DECLARATION, INCLUDING **SECTION 6.02.4** REGARDING OWNER LANDSCAPE MAINTENANCE, AND ALL OTHER APPLICABLE GOVERNING DOCUMENTS. 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.

(e) 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 or services 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 or services 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.

(f) 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. SUCH FACTORS MAY INCLUDE WITHOUT LIMITATION LOT SIZE OR CONFIGURATION, OR OTHER FACTORS WHICH INCREASE COSTS OR EXPENSES INCURRED BY THE ASSOCIATION TO PROVIDE ANY SUCH MAINTENANCE TO ONE OR MORE BUT LESS THAN ALL LOTS.

(g) 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 AND/OR THE SPECIFIC LAWN OR LANDSCAPE MAINTENANCE TO BE PROVIDED AS STATED IN SUBSECTION (a) ABOVE. THE BOARD IS ALSO SPECIFICALLY AUTHORIZED AT ANY TIME AND FROM TIME TO TIME TO ELIMINATE,

EXPAND, MODIFY OR IN ANY OTHER MANNER TO CHANGE ANY AND ALL LAWN OR LANDSCAPING MAINTENANCE OR SERVICES 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.

(h) DECLARANT AND THE ASSOCIATION DO NOT REPRESENT, GUARANTEE OR WARRANT THE VIABILITY, 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 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 afford to the Association and its Related Parties access upon, above, under and across the Owner's Lot and must otherwise fully cooperate with the Association and its Related Parties to the fullest extent reasonably necessary for any maintenance, repair, reconstruction or replacement by the Association as permitted or required by this Article, this Declaration or any other Governing Documents. Without limitation of the foregoing, each Owner, tenant and their Related Parties must promptly comply with all policies, decisions and directives of Declarant or the Association as to access and in all other respects as is reasonably necessary for the Association to promptly and properly perform any such maintenance, repair, reconstruction or replacement.

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 this Declaration and other applicable Governing Documents. Without limitation of the foregoing, each Owner must properly maintain, at each Owner's sold 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 ACC.

(b) The windows must be maintained so that no caulking thereon 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 part of and/or necessary to the proper functioning of all windows and exterior doors must be maintained so 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 ACC.

(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 any Owner Utilities are provided and actually performed by any governmental entity or utility company.

(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, but all costs thereof may be specifically assessed 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 BE LOCATED UPON MULTIPLE LOTS AND/OR COMMUNITY PROPERTIES BY OR WITH THE CONSENT OF DECLARANT DURING THE DEVELOPMENT PERIOD OR THE BOARD THEREAFTER. 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 **SECTION 9.03** REGARDING NOTICE, DURATION, USAGE AND RESTORATION, EACH LOT AND THE COMMUNITY PROPERTIES ARE SUBJECT TO BLANKET EASEMENTS FOR PURPOSES OF CONTINUING MAINTENANCE OF ALL SUCH UTILITY LINES, DEVICES AND RELATED FACILITIES, INCLUDING REGARDING "A/C UNITS" AND AS OTHERWISE PROVIDED IN **SECTION 9.05**, AND FOR MAINTENANCE, REPAIR, RECONSTRUCTION AND REPLACEMENT OF THE SAME BY THE APPLICABLE OWNER AND SUCH OWNER'S RELATED PARTIES.

#### 6.02.4 Landscaping.

(a) All grass and lawn areas, shrubbery, trees, flower beds, vegetation and all other landscaping, either natural or artificial, on each Lot which is not maintained by the Association must be properly irrigated and otherwise 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 create any unsanitary condition or become a harborage for rodents, vermin or other pests. Such maintenance for each Lot 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 and trees, (iii) prompt removal and replacement of any dead, diseased or materially damages grass or lawn areas, plants, shrubs or trees with grass, plants, shrubs or trees of like kind and quality, (iv) proper utilization of any irrigation system for the Lot, and proper maintenance and prompt repair or replacement of any damaged, defective or improperly functioning irrigation system, in whole or in part, (v) treatment or control as needed to prevent or eliminate termites, carpenter bees or any similar type of wood infestation or other infestations (such as, for example but without limitation, treatment or control as to wasp or bee hives, mice, rats, squirrels or any other type of rodents, vermin or pests), and (vi) full compliance with all other lawn and landscape maintenance obligations in accordance with this Section, this Declaration and all other applicable Governing Documents, and with any reasonable requests by the Association as to the same.

(b) IN ANY CASE WHERE A LOT ABUTS A STREET OR SHARED DRIVE, THE OWNER MUST IRRIGATE AND MAINTAIN ALL 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.

(c) WITOUT 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 REMOVED, ADDED TO OR MATERIALLY CHANGED UNLESS AND UNTIL PRIOR WRITTEN APPROVAL OF THE ACC IS OBTAINED IN ACCORDANCE WITH **ARTICLE IV** OF THIS DECLARATION.

6.02.5 Annual Observations and Maintenance. Without limitation of an Owner's obligation for continuing maintenance as otherwise provided herein, each Owner is responsible for conducting at least annual observations and inspections of the Owner's Lot and all improvements thereon to ascertain all maintenance and other work needed to obtain and maintain Prevailing Community Standards, including full compliance with this **Section 6.02**. The observations and inspections must include without limitation (i) foundations and flatworks, (ii) roofs, (iii) all wood works, including window and door frames, and (iv) all guttering, downspouts, grading and all other matters needed to ensure positive drainage from foundations to promote rapid runoff, to avoid collecting ponded water near any structure which could migrate down any soil/foundation interface and to minimize infiltration of water from rain and lawn watering, and to prevent drainage from one Lot to another Lot or to Community Properties. Each Owner must promptly perform all work which each annual observation and inspection indicates is reasonably necessary.

6.02.6 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.

6.02.7 Disturbance of Community Properties. In the event the performance of any Owner's maintenance responsibilities requires that any portion of the Community Properties be modified, removed or disturbed, then such Owner must first obtain the written consent of the ACC as to same. All such work must be performed, at the option of the Association, either under the supervision of the Association in accordance with plans and specifications approved by the ACC, or by the Association at the reasonable expense of the Owner. If the Association performs the work at the expense of the Owner, the ACC may require a security deposit or advance payment of all of the estimated expenses which the Owner must pay upon demand. Such indebtedness will be added to and become a part of the specific assessment to which such Owner and the Owner's Lot are subject, and is secured by the continuing lien hereby established against such Owner's Lot.

6.02.8 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 this Declaration or other 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 defined in **Section 9.03.2**), 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 this Declaration or other 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 ACC. 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 ACC.

6.05.3 Time Limits. All work regarding a Damaged Improvement must be completed within one hundred twenty days as to a residence, including appurtenant garage, and within sixty days as to any other Damaged Improvement, after the date of occurrence of the damage, casualty loss or other destruction. If such work cannot be completed within the applicable period of time, then the work must be commenced within such period and completed within a reasonable time thereafter as determined by the Board. In all events, all such work must be completed within one hundred eighty days 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 Board.

6.05.4 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.

6.05.5 ACC Approval Required. The provisions of **Article IV** apply to all work and to any other activities pursuant to the requirements of this Section.

SECTION 6.06 Owner Insurance. 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 THEREOF AND THE OWNER'S RELATED PARTIES. DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES HAVE NO OBLIGATION WHATSOEVER TO CONFIRM OBTAINING OF ANY INSURANCE (EVEN IF REQUIRED BY RULES AND REGULATIONS AS NEXT PROVIDED), AND HAVE NO OTHER RESPONSIBILITIES REGARDING ANY OF THE SAME. The Board may at any time adopt Rules and Regulations to establish specific insurance requirements, including as to types of insurance coverage, endorsements, deductibles and limits, and may require any Owner to provide to the Association proof of insurance in such manner and form as the Board may require. In such event, and If in the sole opinion of the Board satisfactory proof of insurance is not provided, the Association may obtain (but has no obligation whatsoever to obtain) the required coverage on behalf of the Owner, and assess as a specific assessment all premiums and all other costs and expenses related thereto to the defaulting Owner.

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 appropriate deductibles for all 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. The Board is specifically authorized from time to time to adopt and amend policies, procedures and any other Rules and Regulations to more fully effectuate the purposes and intent of the provisions of this **Article VI**.

SECTION 6.08 Dampness and Humidity. OWNERS AND OCCUPANTS ARE ADVISED THAT THE CONTINUED PRESENCE OF MOISTURE ON COMPONENTS OF THE RESIDENCE (FROM LEAKS, CONDENSATION, SPILLS, ETC.) MAY CAUSE THE

PROPAGATION OF MOLD WHICH MAY CAUSE ALLERGENIC REACTIONS AND OTHER HEALTH PROBLEMS IN SOME INDIVIDUALS. EACH OWNER AND THEIR RELATED PARTIES ARE RESPONSIBLE FOR IMPLEMENTING AND MAINTAINING AN INSPECTION AND MAINTENANCE PROGRAM FOR THE IDENTIFICATION AND ELIMINATION OF MOISTURE IN THE RESIDENCE THAT COULD GIVE RISE TO THE GROWTH OF MOLD OR OTHER CONDITIONS DETRIMENTAL TO FUNCTIONING OF THE RESIDENCE OR THE HEALTH OF ITS OCCUPANTS, INCLUDING WITH REGARD TO ANY LEAKS, WET SPOTS OR DAMPNESS BROUGHT ON BY PLUMBING FITTINGS ON APPLIANCES (DISHWASHERS, WASHING MACHINES, ICE MAKERS, ETC.), AND/OR CONDENSATION ON OR ABOUT WINDOWS, DOORS, AND AIR-CONDITIONING DUCTS. ADDITIONALLY, AFTER THE INITIAL SALE OF EACH LOT, ALL OWNERS, MUST PERIODICALLY RUN THE AIR CONDITIONING SYSTEM TO MAINTAIN THE TEMPERATURE OF THE RESIDENCE, WHETHER OR NOT OCCUPIED, AT NO WARMER THAN IS REASONABLY NECESSARY TO MINIMIZE HUMIDITY IN THE RESIDENCE. OWNERS AND THEIR RELATED PARTIES ARE SOLELY RESPONSIBLE AND LIABLE FOR ANY DAMAGES OR PERSONAL INJURIES CAUSED BY FAILURE TO PROPERLY IMPLEMENT OR MAINTAIN THE AFORESAID INSPECTION AND MAINTENANCE PROGRAM. THE ACC IS SPECIFICALLY AUTHORIZED TO ESTABLISH DAMPNESS AND HUMIDITY ARCHITECTURAL GUIDELINES, INCLUDING WITHOUT LIMITATION, STANDARDS AS TO WALL COVERINGS AND PAINTS, AND WITH REGARD TO MAINTENANCE OF AIR SPACE AND AIR MOVEMENT, AND TO REQUIRE SPECIFIC MAINTENANCE AND REPAIR IN CONJUNCTION THEREWITH. WHILE THE FOREGOING IS INTENDED TO MINIMIZE THE POTENTIAL DEVELOPMENT OF MOLDS, FUNGI, MILDEW, AND OTHER MYCOTOXINS, EACH OWNER UNDERSTANDS AND AGREES THAT THERE IS NO METHOD FOR COMPLETELY ELIMINATING THE DEVELOPMENT OF MOLDS OR MYCOTOXINS. DECLARANT MAKES NO REPRESENTATION OR WARRANTIES REGARDING THE EXISTENCE OR DEVELOPMENT OF MOLDS OR MYCOTOXINS, AND EACH OWNER, TENANT AND THEIR RELATED PARTIES BY VIRTUE OF THEIR OCCUPANCY WAIVES AND EXPRESSLY RELEASES ANY SUCH WARRANTY, CLAIM, LOSS OR DAMAGE RESULTING FROM THE EXISTENCE AND/OR DEVELOPMENT OF THE SAME.

**ARTICLE VII**  
**USE RESTRICTIONS**

SECTION 7.01 Residential Use; Group Homes; Treatment Facilities.

7.01.1 General. Each and every Lot is hereby restricted to single family residential use only. No residence may be occupied by more than one single family.

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 governmental ordinances, laws, rules, regulations and permitting or licensing requirements applicable to the same.

7.01.3 Residential Use Only. 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.

7.01.4 Single Family Defined. To the fullest extent allowed by law, as used in this Declaration the term "single family" means either: (i) husband and wife, 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) one or more natural persons not so related but who are maintaining a common household as a single family unit with more than minimal or incidental familial, financial and other responsibilities for each, 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.

7.01.5 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 ACC, if any.

7.01.6 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, horses, livestock, reptiles, fish or poultry of any kind may be raised, bred, kept or maintained on any Lot at any time except "Permitted Pets" which are dogs, cats and other usual and customary household pets. **NOT MORE THAN TWO PERMITTED PETS ARE ALLOWED PER LOT UNLESS AUTHORIZED IN WRITING BY THE BOARD OR BY APPLICABLE RULES AND REGULATIONS.** No Permitted Pets may be raised, bred, kept or maintained for commercial purposes. Subject to **Section 7.04**, the foregoing 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. Notwithstanding the foregoing, the following are hereby excluded as Permitted Pets and are not allowed within any residence, upon any Lot or at any other place within the Subdivision: (i) any dog whose breed is known for its viciousness or ill temper, in particular, the American Staffordshire Terrier, known as a "Pit Bull Terrier", and any dog which in fact exhibits viciousness or ill temper, and (ii) any animal of any kind that has venom or poisonous or capture mechanisms, or if let loose would constitute vermin.

(b) All Permitted Pets must be kept on a leash or carried, and must otherwise be maintained under the control of their owner when outside the owner's residence or when not maintained in an enclosed yard from which the Permitted Pet cannot escape.

(c) 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 the City and other governmental agencies regarding each and all of each Owner's Permitted Pets, including without limitation all licensing and vaccination requirements.

(d) The Board may adopt Rules and Regulations to further regulate Permitted Pets, including without limitation to establish a mandatory program for registration of all Permitted Pets with the Association, regulations to further specify types of usual and customary household pets to be included or excluded as Permitted Pets, regulations as to maximum permitted size or weight of any Permitted Pet, regulations as to number or type of animals, birds or fish which may be kept within a residence and/or other conditions or limitations as to the same, and regulations as to areas outside a residence where Permitted Pets are permitted or from which they are excluded. **WITHOUT LIMITATION AS TO THE FOREGOING, AND EXCEPT AS TO LEGITIMATE SEEING-EYE DOGS, PETS OF ANY KIND MAY BE EXCLUDED WITHIN ANY COMMUNITY PROPERTIES BY POSTING AS TO ANY SUBDIVISION SWIMMING POOL, CLUB HOUSE OR SIMILAR AMENITY, OR BY ADOPTION OF APPLICABLE RULES AND REGULATIONS AS TO ANY COMMUNITY PROPERTIES.**

7.02.2 Removal. The Board may cause any animal, livestock or Permitted Pet to be removed from the Subdivision and may prohibit the return of any such Permitted Pet to the Subdivision. This 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, annoyance or inconvenience to the Owners or occupants of any other Lots or any Community Properties. Removal as aforesaid will be at the sole expense of the responsible Owner or Owner's tenant and without liability of any kind whatsoever to the Association, their Related Parties, or any Person which the Board may direct to remove any such animal, livestock or Permitted Pet.

### SECTION 7.03 Vehicles; Parking.

7.03.1 Prohibited Vehicles; Covers Prohibited. No boat, mobile home, trailer, boat or truck rigging, truck larger than a three-quarter ton pick-up, recreational vehicle, bus, unused vehicle, inoperable vehicle of any kind (including any vehicle requiring the same which does not have both a current and valid license plate and current and valid state inspection sticker), no over-sized vehicle, and no unsightly vehicle or 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 opinion of the Board, may be parked, stored or kept at any time at any location within the Subdivision, including without limitation upon any street or Shared Drive, or upon any other part of any Lot, unless such vehicle is stored completely within a garage. "Oversized vehicle" means 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. Use of vehicle covers of any kind (except for vehicles parked completely in a garage) is prohibited.

7.03.2 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, street or Shared Drive access or usage, or in such manner that any part of the vehicle extends in to or across any part of any sidewalk, street or Shared Drive. No Owner or resident is permitted to park or store any vehicle on the Lot of another Owner or resident.

### 7.03.3 Parking.

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

(1) "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, trailer, and such other devices as from time to time specified by applicable Rules and Regulations.

(2) "Occupant Vehicle means each and all permitted Vehicles as to each Lot 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 period.

(b) Parking - Occupant Vehicles.

(1) MOST LOTS WITHIN THE SUBDIVISION WILL NOT HAVE A PRIVATE DRIVEWAY OF SUFFICIENT SIZE TO PERMIT PARKING THEREIN OF ANY OCCUPANT VEHICLES. AS TO EACH SUCH LOT (AND EXCEPT AS PROVIDED IN SUBSECTION (2) BELOW), (i) PARKING OF ANY OCCUPANT VEHICLE IS PROHIBITED ON ANY SUCH PRIVATE DRIVEWAY, AND (ii) PARKING AS TO THE LOT IS RESTRICTED TO THE GARAGE ONLY.

(2) THIS SUBSECTION (2) APPLIES TO (AND ONLY TO) EACH LOT WITHIN THE SUBDIVISION WHICH HAS A PRIVATE DRIVEWAY OF SUFFICIENT SIZE FOR PARKING OF VEHICLES THEREIN AS PROVIDED IN THIS SUBSECTION. AS TO EACH SUCH LOT AT LEAST ONE OCCUPANT VEHICLE MUST BE PARKED IN THE GARAGE BEFORE ANY OTHER OCCUPANT VEHICLE IS PARKED ON THE PRIVATE DRIVEWAY OF THAT LOT. AT LEAST THREE OCCUPANT VEHICLES MUST BE PARKED IN THE GARAGE AND THE PRIVATE DRIVEWAY OF THE APPLICABLE LOT BEFORE ANY OTHER OCCUPANT VEHICLE AS TO THAT LOT IS PARKED UPON ANY STREET OR SHARED DRIVE WITHIN OR OUTSIDE OF THE SUBDIVISION. PARKING UPON A PRIVATE DRIVEWAY AS AFORESAID IS PERMITTED (i) ONLY IF THE DRIVEWAY IS OF SUFFICIENT SIZE THAT THE ENTIRE OCCUPANT VEHICLE CAN BE PARKED STRAIGHT IN AND WHOLLY WITHIN THE PRIVATE DRIVEWAY WITHOUT EXTENDING IN TO OR ACROSS ANY PART OF ANY SIDEWALK, STREET OR SHARED DRIVE, (ii) ONLY IF NO PART OF THE PARKED VEHICLE EXTENDS ACROSS ANY LOT LINE OF ANY LOT, AND DOES NOT BLOCK ACCESS TO ANY LOT OR ANY PART OF THE PRIVATE DRIVEWAY OF ANY LOT, AND (iii) SUCH PARKING WILL NOT IN ANY OTHER MANNER VIOLATE ANY OTHER PROVISION OF THIS SECTION, OR OF THIS DECLARATION OR ANY OTHER GOVERNING DOCUMENTS.

(3) IF AT LEAST TWO OCCUPANT VEHICLES ARE FIRST PARKED IN THE GARAGE AS PROVIDED IN SUBSECTION (1) ABOVE, OR IF AT LEAST THREE OCCUPANT VEHICLES ARE FIRST PARKED IN THE GARAGE AND/OR PRIVATE DRIVEWAY AS PROVIDED IN SUBSECTION (2) ABOVE, AS APPLICABLE, THEN ONE (AND ONLY ONE) ADDITIONAL OCCUPANT VEHICLE AS TO THE APPLICABLE LOT MAY BE PARKED ON THE SHARED DRIVE IN ACCORDANCE WITH **SECTION 7.03.3(f)**, PROVIDED THAT SUCH SHARED DRIVE PARKING IS PERMITTED ONLY DURING SUCH TIME AS THE OTHER OCCUPANT VEHICLES ARE PARKED WITHIN THE GARAGE AND/OR THE PRIVATE DRIVEWAY AS AFORESAID.

(4) FOR PURPOSES OF COMPLIANCE WITH SUBSECTIONS (1) AND (2) 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 MUST BE PARKED IN THE GARAGE OF THE APPLICABLE

LOT, MAY NOT BE PARKED UPON ANY SHARED DRIVE WITHIN THE SUBDIVISION, AND MAY NOT BE COUNTED IN DETERMINING COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION (1) REGARDING THE MINIMUM NUMBER OF OCCUPANT VEHICLES THAT ARE REQUIRED TO BE PARKED IN A GARAGE AND OR UPON A PRIVATE DRIVEWAY.

(5) OTHER THAN STRICTLY IN COMPLIANCE WITH THE ABOVE SUBSECTIONS, 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 ON A LOT AS AFORESAID MUST BE PARKED OR STORED OUTSIDE OF THE SUBDIVISION.

(6) PARKING OF OCCUPANT VEHICLES UPON AREA PUBLIC STREETS LOCATED OUTSIDE OF THE SUBDIVISION IS PERMITTED, SUBJECT TO THE ABOVE PROVISIONS AND SUBJECT TO THE RIGHT OF APPLICABLE GOVERNMENTAL AUTHORIZES TO RESTRICT OR PROHIBIT THE SAME AT ANY TIME AND FROM TIME TO TIME.

(c) Verification of Occupant Vehicles. The Owner of each Lot and their tenants, as applicable, must provide to the Association upon not less than ten days written notice a fully completed, dated and signed "Vehicle Information Form" which identifies by make, model, color and year all Occupant Vehicles to be parked, kept or stored within the Subdivision as to such Lot, and which states as to each identified Occupant Vehicle the current license plate and state of issuance, the primary operator of the Occupant Vehicle and the relationship of the operator to the Owner or tenant, as applicable. Without limitation of **Section 7.12** regarding Rules and Regulations, the Board is also specifically authorized to adopt rules and procedures for registration with the Association of Occupant Vehicles, and/or for mandatory display of identifying stickers, decals or similar identification of Occupant Vehicles. The said rules and procedures may also provide for towing in accordance with **Section 7.03.5** of any vehicle which is not properly registered with the Association, or which does not display any required identifying sticker, decal or similar identification.

(d) Guest Parking.

(1) SUBJECT TO APPLICABLE PROVISIONS OF EXHIBIT "B" HERETO, DECLARANT ANTICIPATES THAT DECLARANT WILL CONSTRUCT GUEST PARKING SPACES DURING THE DEVELOPMENT PERIOD WITHIN RESTRICTED RESERVES "D" AND "E" AS SO DESIGNATED ON THE INITIAL PLAT. EACH OF THE AFORESAID PARKING SPACES ARE HEREBY DESIGNATED AS GUEST PARKING SPACES EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE RULES AND REGULATIONS. OTHER GUEST PARKING SPACES MAY BE PROVIDED BY DECLARANT DURING THE DEVELOPMENT OR BY THE ASSOCIATION, BUT NEITHER HAS ANY OBLIGATION WHATSOEVER TO DO SO. ACCORDINGLY, NO AREAS OTHER THAN AS AFORESAID MAY BE AVAILABLE FOR GUEST PARKING WITHIN THE SUBDIVISION, AND GUEST PARKING UPON ANY AREA STREET MAY ALSO BE RESTRICTED OR PROHIBITED.

(2) UNLESS OTHERWISE PROVIDED BY APPLICABLE RULES AND REGULATIONS (i) OCCUPANT VEHICLES MAY NOT BE PARKED IN ANY GUEST PARKING AREA AT ANY TIME, (ii) ONLY GUEST VEHICLES OF

THE TYPE DESCRIBED IN **SECTION 7.03.3(b)** MAY BE PARKED IN ANY GUEST PARKING AREA, (iii) GUEST PARKING IS AVAILABLE ONLY ON A FIRST-COME, FIRST-SERVE BASIS, AND (iv) NO GUEST VEHICLE MAY REMAIN PARKED IN ANY GUEST PARKING SPACE AT ANY TIME DURING AND FOR ANY DURATION DURING A DAY (y) ON ANY THREE DAYS OR MORE DURING ANY CALENDAR WEEK, OR (z) ON ANY FIVE DAYS OR MORE IN ANY CALENDAR MONTH OR IN ANY CONSECUTIVE 30-DAY PERIOD.

(3) Notwithstanding subsections (1) and (2) above, the Board is specifically authorized to implement a leasing program whereby specific guest parking spaces may be leased for parking of Occupant Vehicles. In such event (i) a guest parking space may be leased as to a Lot only if there are more Occupant Vehicles in active use as to that Lot than may be parked on the Lot in accordance with this **Section 7.03**, (ii) not more than one guest parking space may be rented as to each Lot, and (iii) any lease will automatically terminate if after entry of the lease the Owner ceases to comply with any conditions for leasing, including as aforesaid and as determined by the Board. Except as provided herein the Board will determine all terms and conditions as to any such leasing program, including rental rates.

(e) Temporary Parking. 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 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 other applicable ordinances and laws (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). "Temporary parking" means only for so long a period of time 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 of time as is reasonably required with the exercise of due diligence to commence and complete maintenance, repair or reconstruction. Any parking in excess of twenty consecutive minutes or one hour in any day is presumed not to be temporary. Pick-up or deliveries (such as moving in or out of a residence), or maintenance, repair or reconstruction requiring longer than twenty consecutive minutes or one hour in any day must be coordinated with the Board and/or the Association's Managing Agent, will be conducted in such manner as to minimize interference with traffic and pedestrian ingress and egress, and will otherwise be conducted in accordance with directives of the Board and/or Managing Agent and applicable Rules and Regulations. The Board may prohibit very large and/or heavy vehicles which may cause damage to streets, Shared Drives, Community Properties or other property from entering the Subdivision, and in all events each Owner and their tenant, as applicable, is liable for all damages caused to any of the same by entry into or parking of any such vehicle in the Subdivision at the request of or on behalf of such Owner or tenant.

(f) Street/Shared Drive Use and Parking; No Obstructions.

(1) All streets and Shared Drives in the Subdivision, whether public or private, are restricted to use for vehicular ingress, egress and regress, parking of vehicles 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 street or Shared Drive, and no activities are permitted thereon which would impede or impair the aforesaid intended uses. Without limitation of the foregoing,

no street or Shared Drive 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 street or Shared Drive, and no persons are permitted to play, loiter, congregate, or roam about within or upon any street or Shared Drive. 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.

(2) WHEN PARKING OF OCCUPANT OR GUEST VEHICLES IS ALLOWED ON ANY STREET OR SHARED DRIVE AS ABOVE PROVIDED, THE VEHICLES MUST BE PARKED ALONG THE SIDE OF THE STREET OR SHARED DRIVE IN FRONT OF, AND ON THE SAME SIDE OF THE STREET OR SHARED DRIVE OF, THE LOT AT WHICH THE OPERATOR OF THE OCCUPANT VEHICLE RESIDES OR WHICH THE GUEST IS VISITING, OR AS CLOSE THERETO AS CIRCUMSTANCES PERMIT.

(g) 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.

(h) Notice of Limited Parking. PARKING OF VEHICLES WITHIN THE SUBDIVISION IS STRICTLY LIMITED TO PARKING IN THE MANNER, FOR SUCH TIME AND WITHIN THE AREAS AS ABOVE SET FORTH. PARKING ON AREA PUBLIC STREETS MAY ALSO BE LIMITED OR UNAVAILABLE. IN ADDITION, GARAGE SIZES MAY LIMIT AVAILABLE PARKING AS PROVIDED IN **SECTION 8.01.2**. ANY LIMITATIONS AS TO AVAILABLE PARKING UPON ANY LOT, OR ELSEWHERE WITHIN THE SUBDIVISION, OR WITHIN THE AREA, OR AS TO GARAGE SIZE, WILL NOT CONSTITUTE A BASIS FOR NON-COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF THIS DECLARATION AND ALL OTHER GOVERNING DOCUMENTS, OR FOR ANY CLAIM OR LIABILITY WHATSOEVER AS TO DECLARANT, THE ASSOCIATION OR ANY OF THEIR RELATED PARTIES. EACH OWNER OR OCCUPANT ASSUMES ALL RISKS REGARDING ANY AND ALL PARKING LIMITATIONS.

7.03.4 Repair, Rental or Sale of Vehicles Prohibited. No work on any vehicle within the Subdivision, including on any street or Shared Drive, or on any Community Properties, or on any street within the vicinity of the Subdivision, or on any Lot, may be performed at any time other than temporary emergency repairs or other work required in order to promptly remove an inoperable or disabled vehicle from 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 vehicles, including any Occupant Vehicles, is prohibited. Without limitation of the foregoing and except for the limited purposes expressly permitted by the foregoing, no vehicle repair, 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 elsewhere within the Subdivision.

7.03.5 Default.

(a) Presumptive Violations. Any vehicle is conclusively presumed to be "unused" or "inoperable" if the vehicle has not been operated outside the Subdivision for seven or more consecutive days or the vehicle has not been operated outside the Subdivision more than twice in any fourteen day period. The provisions hereof do not prejudice the right of the Association to otherwise establish a violation. The foregoing provisions do not apply to any vehicle completely stored within a garage. The Board may grant reasonable exceptions to the foregoing upon receipt of written request from an Owner or their tenant.

(b) Towing; Other Remedies. The Board or its designated representative may cause any vehicle which is parked, stored or maintained in violation of this Declaration or other Governing Documents, or in violation of any ordinance, statute or other governmental regulation, to be booted or removed from the Subdivision to any vehicle storage facility within Harris County, Texas. 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 "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 this Declaration or other applicable Governing Documents. All rights and remedies as aforesaid are cumulative of any other rights or remedies of the Association or its Related Parties.

7.03.6 Development Period. In addition to and without limitation of all other applicable provisions of Exhibit "B" to this Declaration, all "Development Personnel" are hereby exempted from the provisions of this **Section 7.03** and any other Governing Documents to the fullest extent deemed necessary or appropriate by Declarant for the conducting of any and all "Development Activities" (as those terms are defined in **Section B8.01** of Exhibit "B" to this Declaration). Declarant is also fully authorized to impose such temporary rules, regulations and parking policies and procedures as Declarant deems necessary or appropriate for the conducting of all Development Activities, and to designate and post by signage or otherwise "no parking" areas and/or other applicable rules, regulations and procedures. Declarant's authority as aforesaid continues through completion of the Initial Sale of the last Lot in the Subdivision, whether or not completion of the Initial Sale occurs during or after the Development Period.

7.03.7 Other Regulations. The Board may (but has no obligation to) (i) adopt Rules and Regulations to permit parking of vehicles within a garage, or upon a private driveway or upon any street or Shared Drive within the Subdivision other than as provided by this **Section 7.03** to the extent deemed appropriate in general, and/or (ii) to otherwise permit variances for such parking in individual cases to accommodate unusual circumstances or alleviate undue hardship. Any variance may be limited in duration by the Board, and in all events any such variance will terminate immediately at such time and to the extent the unusual circumstances or hardship are alleviated. The Board is also specifically authorized to the fullest extent allowed by law to adopt Rules and Regulations to regulate traffic and parking, including as to (w) the type and/or size of vehicles permitted within the Subdivision, (x) traffic and parking regulations, including as to speed limits or designations of parking or no-parking areas,

(y) location, use and/or appearance of traffic control devices, including as to signs or speed bumps/humps, and (z) fines as to, or removal or prohibition of, any vehicle which is kept, operated, stored or parked in violation of this Declaration or other applicable Governing Documents. By acceptance of title to each Lot, each Owner irrevocably designates and appoints the Association (acting through the Board or any authorized officer) as attorney-in-fact to act on behalf of all Owners concerning, and in the execution of all agreements and any other instruments required by applicable law regarding, the imposition, modification, enforcement or removal of any restrictions, limitations, regulations, traffic control devices, or other matters regarding any of the provisions of this subsections.

7.03.8 LIMITATION OF LIABILITY. DECLARANT, THE ASSOCIATION, THEIR RELATED PARTIES, AND ANY "TOWING COMPANY" (AS ABOVE DEFINED) AND ANY OTHER AUTHORIZED PERSON WHO EXERCISES 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, 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 OF ALL OTHER LIMITATIONS OF LIABILITIES SET FORTH IN THIS DECLARATION OR OTHER GOVERNING DOCUMENTS.

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 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, 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 ACC 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 must be installed, maintained, operated and used 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. Fire or security alarms used exclusively for such purpose are permitted, provided that such devices must be installed in such manner as not to be visible from any street or Shared Drive, and otherwise in as inconspicuous a manner as possible. The placement of not more than two exterior speakers and/or one television or other video source within each exterior patio area and/or balcony area for purposes of transmitting music or television/video sources is permitted. However, in any such case the volume and video must be maintained so as not to be audible from the inside of any adjacent or area residence, or otherwise unreasonably audible or visible from outside of the Lot lines of the applicable residence. No exterior audio or video equipment may be operated in any area at any time when the Owner, tenant or their Related Parties are not in the area. No stereo, television, speaker, horn, whistle, bell or other sound device may be operated within, and no other sound emitting activity (such as practice of a band, excessively loud social gatherings and similar activities) may be conducted within, a residence, garage or other structure which is audible from inside of any closed adjoining or area residence or which is unreasonably audible from the outside the Lot lines of the applicable residence, garage or other structure, or which is otherwise 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 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 plastic bags tied or otherwise tightly secured, and must be placed in an area adequately screened by planting or fencing from public view or within a garage except when placed for regular pickup as herein provided. Equipment used for

the temporary storage and/or disposal of such material prior to removal must be kept in a clean and sanitary condition, and must comply with all applicable federal, state, county, municipal or other governmental laws and regulations. All such prohibited matter must be removed from each Lot at regular intervals if not removed or removable by a regular garbage and sanitation 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 garbage and sanitation service or provider may require; provided trash and garbage may not be placed for pickup earlier than eight (8) hours prior to a scheduled pickup day, and all receptacles therefor and any remaining trash and garbage 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 and only as permitted by and in strict compliance with all applicable provisions of this subsection, this Declaration and all other applicable Governing Documents. Outdoor cooking is permitted only in equipment especially constructed for the same, only in strict compliance with all applicable fire codes, ordinances and all other applicable governmental regulations 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. Outdoor cooking is prohibited upon Community Properties unless authorized by the Board. 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. Open fire pits are prohibited unless specifically approved by the ACC on a case by case basis. Notwithstanding the foregoing, and without limitation as to any other applicable provisions of this Declaration or other Governing Documents, the Board is authorized to enact Rules and Regulations specifically prohibiting outdoor cooking at any place within the Subdivision or upon any Lot, or otherwise permitting, restricting or regulating outdoor cooking.

**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 of, and without limitation as to, all other applicable provisions of this Declaration and other Governing Documents.

**SECTION 7.05 Garage 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 improved thereon, is strictly prohibited unless sponsored by the Association, or unless authorized 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 sale (a "garage sale"). Any written authorized for a garage sale or applicable Rules and Regulations may specify requirements, conditions and limitations regarding garage sales in general, or specific garage 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 in this Declaration or any other Governing Documents, "lease," "leasing" or equivalent means occupancy of a Lot by any Person other than an Owner 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 this Declaration and all other Governing Documents (whether or not expressly stated in a lease). Any failure by lessee or other occupant to comply with this Declaration or any other Governing Documents will be a default under the lease.

(c) The Association may not adopt or enforce any provisions pursuant to this Declaration or any other 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.

(d) Except as provided in subsection (c) above, this **Section 7.07** does not prohibit the adoption of any provisions to this Declaration or any other Governing Documents relating to occupancy or leasing.

7.07.2 Default. In the event of default under any lease due to violation of this Declaration or any other 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. With regard to the foregoing and in accordance with applicable provisions of this Declaration, 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 THIS DECLARATION OR ANY OTHER 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 this Declaration and all other Governing Documents, including without limitation joint and several liability for all damages, costs and expenses resulting from any violation, by either, or by their respective Related Parties, all fines and assessments imposed hereby and with respect to all other rights and remedies regarding enforcement of this Declaration and all other 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 properly supervised at all times, and may not permit their children or other dependents to engage in any activity or conduct in violation of this Declaration or other 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 this Declaration and all other 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 during the Development Period and the Board at any time may adopt and amend reasonable Rules and Regulations, subject to the following: (i) 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 after enactment of the Rules and Regulations covering the same, then the Rules and Regulations will apply to the use, condition or activity thereafter, and (ii) Rules and Regulations will not become effective until filed in the Official Public Records of Real Property of Harris County, Texas, or such later date as stated therein. Notice of adoption or amendment of Rules and Regulations must be given to all Owners within a reasonable time after filing 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, 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 ACC. 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 ACC. 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. THIS SIZE LIMITATION IS NOT A BASIS FOR NON-COMPLIANCE WITH APPLICABLE PROVISIONS OF THIS DECLARATION OR OTHER GOVERNING DOCUMENTS (INCLUDING APPLICABLE RULES AND REGULATIONS), AND IS NOT A BASIS FOR ANY CLAIM WHATSOEVER AGAINST DECLARANT OR 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 ACC. 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 ACC. The foregoing prohibition does not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Lot, provided it receives the prior written approval of the ACC.

SECTION 8.02 Living Area Requirements. The 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 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.

SECTION 8.03 Requirement for and Location of Residence. Each and every Lot within the Subdivision must have a substantially completed single family residence constructed thereon prior to commencement of the use thereof 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 or applicable governmental requirements. 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 ACC and in addition to all other applicable requirements of this Declaration and other 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 the Builder or Owner.

8.04.3 New Construction Materials Required. Only new construction materials (except for used brick if approved by the ACC) 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 ACC, 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. During the Development Period Declarant is hereby specifically authorized 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, any Authorized Builders and 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; provided, such easement may not be exercised 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 during the Development Period and the Board thereafter 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 as may hereafter be imposed by Declarant during the Development Period or the Board thereafter.

(c) Owner Obligations. Once established and for so long as continued maintenance thereof is reasonably necessary, all Drainage Devices must remain unobstructed, and, except as otherwise expressly provided in subsection (a) above, must be properly maintained by and at the sole cost of the Owner of each Lot to which the same pertains or, when any Drainage Device serves more than one Lot (such as in the case of guttering on residences connected to a common line), then maintenance and the costs thereof of the Drainage Device which serves the multiple Lots (being the common line in the aforesaid example but not the guttering or connections for the same to the common line) will be shared pro rate by all of the Owners to which same pertains. Each Owner must refrain from permitting any construction, grading and any other work, act or activity upon such Owner's 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 during the Development Period or the ACC thereafter, 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. Without limitation of the foregoing, no Owner may place or permit placement of any flower bed or other landscaping, or any other structure or thing along or near any Lot line which would obstruct, alter, divert, impede, or impair drainage along any Lot line within any swale or otherwise within drainage patterns as established by Declarant during the Development Period or by the ACC thereafter. To obtain and maintain proper drainage, including as required by this Section, and/or as changing circumstances may require, the ACC 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 as the ACC determines, 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.

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 ACC. All garage roofs, and roofs of any gazebo or outbuildings as may be approved by the ACC, 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 **Section 8.14**. Architectural metal roofs not to exceed 10% of the total roof are allowed as otherwise approved by the ACC.

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 ACC. 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 ACC. In-ground pools must be constructed of granite or other materials as approved by the ACC. 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. Playhouses, fort style structures and similar play structures may not exceed a maximum overall height of ten feet (10'), and may not contain any deck, floor, landing or other feature intended for use for sitting or standing or other occupancy that exceeds two feet (2') above grade. No part of a water slide may exceed a height of three feet (3'). No basketball goal or backboard, no pool or spa, and no other play-structure, sport or tennis court, playhouse, water slides, fort style structure or other playground equipment or playscape is permitted closer than (i) the front setback or fifteen feet (15') from the front Lot line, whichever is greater, or (ii) six feet (6') from any side or rear Lot line, subject in any case to the right of the ACC to increase the aforesaid distances if deemed necessary to protect the privacy rights of Owners or occupants of area Lots, or as to any Community Properties. None of the foregoing is permitted unless approved by the ACC. Except as otherwise approved by the ACC regarding basketball goals, none of the foregoing is permitted unless completely enclosed by fencing as approved by the ACC. 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 ACC. Initial Lot landscaping must be completed no later than thirty days after the Initial Sale of the Lot except as otherwise approved by the ACC. 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 ACC. 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 ACC. Any request for ACC approval must include any permit as required by applicable governmental agencies. 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 ordinances, construction codes or other governmental regulations. Where a tree overhangs a street or Shared Drive 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 street or Shared Drive 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 ordinances, instruction codes or other governmental regulations. 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 ACC may require replacement of any tree which is removed or of any tree which is substantially damaged as determined by the ACC at the Owner's sole cost and expense.

8.04.9 Driveways. Each Lot must contain a 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 Declarant or by the ACC. All 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 requirements of any governmental authority.

8.04.10 Painting of Frame Construction. No structure of any kind or character which incorporates wood construction on the exterior may be erected on any Lot unless such structure receives at least two coats of paint at the time of construction or the exterior is redwood, cedar or other material intended to have an exposed national finish as approved by Declarant or by the ACC.

8.04.11 Mailboxes. To the extent mail service is provided in mailbox banks as permitted by **Section 9.05** hereof, 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 ACC. All mailboxes must be either mounted on a black metal post with a black painted finish (or as otherwise approved), or installed in a mailbox type housing constructed of brick which matches the applicable residence, as approved by the ACC. 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 governmental laws, ordinances and regulations, including applicable building codes or 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" as provided in **Section 8.14.11**, subject to strict compliance with all provisions of that Section.

SECTION 8.06 Lot Fences, Walls and Hedges.

8.06.1 Definitions. As used in this Section (i) "Lot Fencing" means any and all fences and freestanding fence type walls, gateposts, hedges and planters, whenever and wherever located on any Lot, including any front courtyard fencing, and (ii) "hedge" means a row of bushes, shrubs and similar plants which, at natural maturity, will exceed three feet (3') in height and have sufficiently dense foliage as to present a visual and physical barrier substantially similar to a fence.

8.06.2 ACC Approval Required. No Lot Fencing may be constructed, placed or maintained on any Lot without prior written approval of the ACC.

8.06.3 General Requirements: Except as to any Lot Fencing as installed by or with the approval of Declarant during the Development Period, or unless otherwise approved in writing by the ACC, all Lot Fencing must comply with the following:

(a) No Lot Fencing (and no Subdivision Fencing as hereafter defined) may exceed seven feet (7') in height, as measured from the highest point of grade along the applicable fence line.

(b) All Lot Fencing (other than hedges) must be constructed of redwood or cedar vertical pickets with treated pine (or equivalent) post and supports, or ornamental wrought iron, brick or masonry, or combinations thereof, or composite materials which substantially simulate the appearance of the foregoing, as approved by the ACC. PAINTING OF WOODEN FENCES IS PROHIBITED UNLESS APPROVED IN WRITING BY THE ACC.

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

(d) NO LOT FENCING MAY BE ERECTED OR MAINTAINED NEARER TO THE FRONT BUILDING SETBACK LINE THAN THE PLANE OF THE FRONT EXTERIOR WALL OF THE RESIDENTIAL STRUCTURE ON SUCH LOT WHICH IS FURTHERMOST FROM THE FRONT BUILDING SETBACK LINE.

#### 8.06.4 Ownership and Maintenance.

(a) General. Ownership of all Lot Fencing passes with title to the Lot. 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. The foregoing includes, without limitation, such maintenance, repair or replacement as is required to prevent listing or leaning, repair of all damaged or broken pickets and other members, and all holes and cracks, and repair or replacement as required to prevent rot or decay, and any other visible signs of dilapidation or deterioration. Lot Fencing which has been defaced with graffiti or other markings must be restored to its prior condition within 72 hours of such defacement or markings. THE LOCATION, STYLE, FINISH, APPEARANCE AND ALL OTHER FEATURES OF LOT FENCING MUST BE APPROVED BY THE ACC PRIOR TO INSTALLATION AND THEREAFTER MAY NOT BE MODIFIED OR CHANGES WITHOUT PRIOR WRITTEN APPROVAL OF THE ACC.

(b) Party Fences. "Party Fencing" means any Lot Fencing which serves and separates adjoining Lots or which is otherwise shared in common by two or more adjoining Lots. 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 Party Fencing.

(c) Maintenance. All maintenance, repair or replacement of Party Fencing is the joint responsibility of, and the costs thereof must be shared equally by, the adjoining Owners. Otherwise, all such maintenance, repair or replacement of Lot Fencing as to each Lot is the responsibility of, and all costs thereof must be paid solely by, the Owner upon whose Lot the Lot Fencing is located. Notwithstanding the foregoing if a part or all of any Party Fencing is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and therefore not repaired out of the proceeds of insurance any Owner who the Party Fencing serves may restore it and all other Owners who the Party Fencing serves must contribute to the cost of restoration thereof in equal proportions. The right

of any Owner to contribution from any other Owner under this Section runs with the land and passes to such Owner's successor-in-title.

(d) Dispute Resolution. Any dispute arising between any Owners regarding contribution or any other matters pertaining to this Section may be submitted to the Board for resolution in accordance with, or the Board may require such submission in accordance with, **Section 6.02.8**. The foregoing includes any claim for a larger contribution under subsections (c) or (d) above by an Owner from another Owner or Owners under any rule or law regarding liability for negligent or willful acts or omissions, or due to other circumstances which establish in the opinion of the Board the need for a larger contribution.

#### 8.06.5 Subdivision Fencing, Including Gates; Easements.

(a) "Subdivision Fencing" means (i) all fences and freestanding fence type walls located along the perimeter boundaries of the Subdivision, or which are otherwise designated as Subdivision Fencing by Declarant during the Development Period or the Board thereafter, (ii) all access limiting gates, including vehicle and pedestrian gates, and all associated controllers, operators and related devices and facilities ("access limiting devices"), and (iii) fences, walls, and/or entry and other identification monuments. 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 DURING THE DEVELOPMENT PERIOD OR THE BOARD THEREAFTER.

(b) During the Development Period Declarant is specifically authorized to locate, establish, construct and maintain any and all Subdivision Fencing upon, over, access and under any part of the Subdivision, including any Lot, as Declarant deems appropriate. Declarant hereby reserves blanket easements upon, over, across, and under the Subdivision, including any Lot, for purposes of locating, establishing, constructing and maintaining any Subdivision Fencing. In addition to and without limitation of any other applicable easement, specific easements are hereby reserved in favor of Declarant and the Association upon, under and across each Lot for purposes of construction, maintenance, repair, reconstruction and replacement of any Subdivision Fencing.

(c) THE EASEMENTS ESTABLISHED BY THIS SECTION 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, AND DECLARANT, THE BOARD 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 ACC 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 or Shared Drive. Declarant during the Development Period and the Board at any time, may 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 ACC to grant variances as provided in **Section 4.03**, the ACC is specifically authorized to (but is not in any event required to) grant variances as to prohibited antenna. The ACC 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 Rule. As used in this **Section 8.08**, "sign" means and includes any billboards, posters, banners, pennants, displays, symbols, emblems, advertising 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**. 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 ACC, and except as otherwise expressly permitted in this **Section 8.08**.

8.08.2 Prohibited Signs. No sign is permitted which contains language, graphics or any display that is vulgar, obscene or otherwise offensive to the ordinary person. 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 ACC as to any of the foregoing is final. No sign may be illuminated. 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**. 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. No sign may be placed upon or within, or attached to, any Community Properties without the prior written consent of the ACC. Foreclosure, bankruptcy and other distressed sale references are specifically prohibited. Signs disparaging, defaming or demeaning any Person, including Declarant, the Association, the ACC or their Related Parties, on account of race, creed, gender, religion or national origin, regarding

any "Development Activities" (as defined in Exhibit "B" hereto), 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 ACC; (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 Signs and Stickers. Security service signs and stickers are permitted as follows: (i) no more than one security 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 sticker is permitted on each entry door to the residence, no more than one security sticker is permitted on one window on the front, each side and the back of the residence and no security sticker may exceed 4"x4" in size; (iii) no security signs or stickers may be illuminated, and (iv) only security signs or stickers as printed, prepared and provided by a commercial security or alarm company are permitted.

(c) Political Signs and Permitted Flags. "Political Signs" and "Permitted Flags" as defined in **Section 8.14** are permitted subject to strict compliance with all applicable provisions of **Section 8.14**.

8.08.4 Other Signs and Regulations. Without limitation of any other applicable provisions hereof, the ACC 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 ACC.

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 to "For Sale" and "For Lease" signs of any kind, but does not apply to security signs or stickers, Political Signs or Permitted Flags as otherwise permitted by **Sections 8.08**. This **Section 8.08** 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 8.08**, may be removed at any time by or at the direction

of Declarant, the Board or the ACC, and may be discarded as trash without liability for trespass, conversion or damages of any kind. In addition, the Board or the ACC 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 8.08** 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 which obstructs sight lines at elevations between two and eight feet (2' & 8') above a street or Shared Drive is permitted (i) on any corner Lot within the triangular area formed by the two boundary lines thereof abutting the corner streets/Shared Drives 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 or Shared Drive, 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 governmental regulations even if the residence or garage encroaches upon either of the aforesaid sight line areas.

**SECTION 8.10 Window and Door Glass Covers.** Glass in windows, doors and other similar openings must be maintained as installed during original construction except as otherwise permitted in writing by the ACC. Glass film and similar tinting, and aluminum foil and similar reflective materials, are in all events prohibited for use as a cover for any window or door; provided, factory tinted glass may be approved by the ACC. Only blinds, curtains or drapes with backing material which is white, light beige, cream, light tan or light gray, and blinds or miniblinds of the same color, are permitted, unless otherwise first approved in writing by the ACC. No other window treatment color may be visible from the exterior of any residence or other improvement. Temporary or disposable coverings, including sheets, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made or commonly used by the general public for permanent window coverings, are expressly prohibited.

**SECTION 8.11 Utilities; Lighting.**

**8.11.1 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.

**8.11.2 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 company must be installed underground unless otherwise approved in writing by Declarant during the Development Period or the ACC, and must be maintained at all times by the Owner of the Lot upon which same is located.

**8.11.3 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 or Shared Drive is permitted. Notwithstanding

the foregoing, during the Development Period 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 or Shared Drive, 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 during the Development Period or the ACC thereafter.

8.11.4 Exterior Lighting. Excepting customary Christmas lighting, any exterior lighting of a residence or Lot must be approved by the ACC 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 ACC 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 ACC 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 ACC.

SECTION 8.12 Artificial Vegetation, Exterior Sculptures and Similar Items. Unless otherwise approved by Declarant or the ACC, and subject to applicable provisions of **Section 8.14**, artificial vegetation or other artificial landscaping, exterior sculpture, fountains, flags, birdhouses, birdbaths and other decorative embellishments or similar items are prohibited at any location upon a Lot which is visible from any street or Shared Drive, or at ground level from another Lot.

SECTION 8.13 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 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 during the Development Period or by the ACC. The foregoing does not preclude use of a "Rainwater Harvesting System" as provided in **Section 8.14**, subject to strict compliance with all applicable provisions of that Section.

SECTION 8.14 Protected Property Use Policies.

8.14.1 Applicability; Definition. This **Section 8.14** applies to any protected property uses established pursuant to Chapters 202 and 209 of the Texas Property Code and other applicable law, and to any structure, object, thing or device specifically pertaining to the protected property use (a "Protected Property Use Device").

8.14.2 Prior Approval Required. Except as otherwise expressly provided in this **Section 8.14** or in applicable Architectural Guidelines and/or Rules and Regulations, if any, prior written approval must be requested and obtained from the ACC in accordance with **Article IV** of this Declaration as to any Protected Property Use Device prior to construction, installation or maintenance of the same. Each approval request must also contain sufficient information and/or documentation as necessary to confirm compliance as aforesaid and with



applicable provisions of this **Section 8.14**. Any prohibitions or restrictions applicable to the Association as provided in this **Section 8.14** apply in like manner to the Board and to the ACC.

**8.14.3 General Location Requirements: Determining Easements, Setbacks and Lot Lines.**

(a) Subject to and without limitation of any other specific location requirements as otherwise stated in this **Section 8.14** in this Declaration, or in applicable Architectural Guidelines and/or Rules and Regulations, if any, no Protected Property Use Device may be located, placed or maintained at any location within the Subdivision (i) on any property which is owned by the Association, or owned in common by the Members of the Association and the Association, or (ii) at any other location within the Subdivision except upon the Lot of the owner of the Protected Property Use Device.

(b) Whenever easements, setbacks and Lot lines are referenced in this Section (or this Declaration), the easements, setbacks and Lot lines must be determined in accordance with the Plat, this Declaration and all other matters of record as reflected by the Official Public Records of Real Property of Harris County, Texas. For example, a Lot line is not necessarily the same as the curb or edge of an abutting street or Shared Drive, and a building setback is not necessarily the same as the location of the front of a residence.

**8.14.4 Continued Maintenance Requirement.** Each Protected Property Use Device must be properly maintained in good condition and appearance at all times. Any deteriorated, damaged, structurally unsound or improperly functioning Protected Property Use Device must be promptly repaired, replaced or removed.

**8.14.5 Energy Efficient Roofing.**

(a) This Section applies to "Energy Efficient Roofing" which means shingles that are designed primarily to (i) be wind and hail resistant, (ii) provide heating and cooling efficiencies greater than those provided by customary composite shingles, or (iii) provide solar generation capabilities.

(b) The Association may not prohibit or restrict an Owner who is otherwise authorized to install shingles on a roof on a structure that is located on the Owner's Lot from installing Energy Efficient Roofing, provided that when installed the shingles:

(1) will otherwise comply with all applicable provisions of the Declaration, and with all applicable Architectural Guidelines and/or Rules and Regulations, if any;

(2) resemble the shingles used or otherwise authorized for use in accordance with subsection (1) above;

(3) are more durable than and are of equal or superior quality to the shingles described by subsection (1) above; and

(4) match the aesthetics of the property surrounding the Owner's property.

8.14.6 Political Signs. Political signs advertising a political candidate or ballot item for an election (a "Political Sign") are permitted, subject to the following:

(a) No Political Sign is permitted earlier than the 90<sup>th</sup> day before the date of the election to which the sign relates, and each Political Sign must be removed in its entirety by the 10<sup>th</sup> day after the election date.

(b) No more than one Political Sign for each candidate or ballot item may be displayed per Lot.

(c) Each Political Sign must be ground-mounted.

(d) No Political Sign may be larger than four feet (4') by six feet (6').

(e) No Political Sign may (i) contain roofing material, siding, paving materials, flora, any balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; (ii) be attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; (iii) include the painting of architectural surfaces; (iv) threaten the public health or safety; (v) violate a law; (vi) contain language, graphics, or any display that would be offensive to the ordinary person; or (vii) be accompanied by music or other sounds or by streamers, or be otherwise distracting to motorists.

(f) The Association may remove, discard, and dispose of any Political Sign which is placed or displayed within the Subdivision in violation of this Section and/or may impose fines as to the same as permitted or provided in this Declaration or other Governing Documents without liability for trespass, conversion or otherwise, or for any damages of any kind.

8.14.7 Permitted Flags.

(a) Subject to other applicable provisions of this Section, the Association may not prohibit or restrict an Owner from displaying upon the Owner's Lot (i) one American flag as permitted by the Freedom to Display the American Flag Act of 2005, and (ii) one flag of the State of Texas, and one flag each of any branch of the United States armed forces (official or replica) as permitted by Section 202.012 of the Texas Property Code (a "Permitted Flag"). Only Permitted Flags may be displayed. All other flags are deemed to be a "sign," and are thereby subject to all applicable provisions of this Declaration and other Governing Documents regarding signs.

(b) Permitted Flags may only be displayed (i) from a pole attached to the residence, including the appurtenant garage, as herein provided (a "Flagstaff"), or (ii) from a free-standing pole which is installed in the ground as herein provided (a "Flagpole"). All Permitted Flags must be displayed in a respectful manner in accordance with 4 U.S.C., Section 5-10, Texas Government Code, Section 3100, and all other military codes and laws, as applicable.

(c) The display of any Permitted Flag, and the location and construction of any Flagpole or Flagstaff, must comply with all applicable zoning ordinances,

easements and setbacks of record. Easements and setbacks must be determined as provided in **Section 8.14.3** regarding general location requirements.

(d) No Flagstaff or Flagpole may be located or displayed on any property which is maintained by the Association, including without limitation on any part of a Lot as to which the Association provides lawn or landscape maintenance, or on any part of a residence, including appurtenant garage, which is maintained by the Association.

(e) Not more than one Flagpole or one Flagstaff, and not both, may be placed or maintained on any Lot in accordance with the following:

(1) For purposes of this Section, "front yard" means a yard within a Lot having a front building setback line with a setback of not less than fifteen feet (15') extending the full width of the Lot between the front Lot line and the front building setback line.

(2) If the Lot has a "front yard," then, either one Flagpole may be installed in the "front yard," or one Flagstaff may be attached to the residence, including appurtenant garage, located on the Lot.

(3) If the Lot does not have a "front yard," then one Flagstaff may be attached to the residence, including appurtenant garage, located on the Lot. No Flagpole is permitted on any Lot which does not have a "front yard."

(f) A Flagpole (i) may not exceed twenty feet (20') in height, (ii) may not exceed twelve inches (12") in diameter unless approved by the ACC in accordance with the manufacturer's recommendations, and (iii) must be permanently installed in the ground in accordance with the manufacturer's instructions.

(g) A Flagstaff (i) may not be more than four feet (4') in length, (ii) may not exceed four inches (4") in diameter unless approved by the ACC in accordance with the manufacturer's recommendations, (iii) may not be attached such that any part of the Flagstaff exceeds the lesser of (x) twenty feet (20') in height above ground level, (y) the height of the lower border of the roof on the applicable residence or garage (the eaves), or (z) such lower height as determined by the ACC to be reasonably necessary to obtain aesthetic compatibility and harmony of external design, location and appearance as provided in this Declaration or other applicable Governing Documents, and (iv) must be securely attached by a bracket at an angle of 30 to 45 degrees down from vertical and in accordance with the manufacturer's instructions.

(h) Permitted Flags are limited in size to a maximum of three feet (3') tall and five feet (5') wide.

(i) Not more than one Permitted Flag may be displayed on a Flagstaff. Not more than one Permitted Flag may be displayed on a Flagpole which is less than twelve feet (12') in height. Not more than two Permitted Flags may be displayed on a Flagpole that is twelve feet (12') to twenty feet (20') in height.

(j) A Permitted Flag may be illuminated only if it will be displayed at night, and if existing ambient lighting does not provide essentially equivalent

lighting as next provided. Any permitted illumination (i) must be ground mounted in close proximity to the Permitted Flag, (ii) must be pointed towards the center of the flag, and must face and be pointed towards the main residence located on the Lot, (iii) must utilize a fixture that screens the bulb and directs light in the intended direction with minimal spillover, and (iv) may not provide illumination exceeding the equivalent of a 60 watt incandescent bulb.

(k) Flagstaffs and Flagpoles must be (i) commercially made for flag display purposes, (ii) constructed of permanent, long-lasting materials with a finish appropriate to the materials use in the construction of the Flagstaff or Flagpole, and (iii) harmonious with the main residence located on the applicable Lot.

#### 8.14.8 Rainwater Harvesting Systems.

(a) Subject to other applicable provisions of the Section, the Association may not prohibit or restrict installation or maintenance by an Owner on the Owner's Lot of a rain barrel or other rainwater harvesting system (a "Rainwater Harvesting System").

(b) In addition to the general location requirements set forth in **Section 8.14.3** hereof, the Rainwater Harvesting System may not be located between the front of the main residence located on the Lot and any adjoining or adjacent street or Shared Drive.

(c) The Rainwater Harvesting System must be of a color which is consistent with the color scheme of the main residence on the applicable Lot, and may not display any language or other content that is not typically displayed on the Rainwater Harvesting System as it is manufactured.

(d) This subsection applies if and as to each Rainwater Harvesting System which will be installed on or within the side yard area of a Lot, or which would otherwise be visible from any street or Shared Drive, or from any Community Properties, or from another Lot. In each such case the proposed Rainwater Harvesting System is subject to regulation as to the size, type, shielding and materials used in the construction of the system as part of the approval process as provided in **Section 8.14.2**, provided that the economic installation of the system may not be prohibited thereby. The Owner seeking approval of any Rainwater Harvesting System subject to the foregoing must submit with the Owner's approval request a description of methods proposed to shield and otherwise minimize the visibility and visual impact of the system.

(e) Harvested water must be used, and may not be allowed to become stagnant or otherwise cause or create any threat to health or safety. Any unused Rainwater Harvesting System must be removed if any part thereof is visible from any street or Shared Drive, Community Properties or another Lot, or if the unused system may or does cause or create any threat to health or safety.

#### 8.14.9 Solar Energy Devices.

(a) In this Section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling, or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling, or in the production of power. The term also includes all components of the

Solar Energy Device as applicable, including any related mast, frame, brackets, support structures, piping and wiring.

(b) No Solar Energy Device may be installed or maintained upon any residence or Lot, or at any other location in the Subdivision during the Development Period without the prior written consent of Declarant. No solar energy device may be installed or maintained upon any residence or Lot, or at any other location in the Subdivision, either during or after the Development Period except in accordance with this Section.

(c) All Solar Energy Devices must be installed and thereafter maintained in compliance with the manufacturer's instructions and requirements, and must be installed and thereafter maintained in a manner which does not void any material warranties.

(d) All Solar Energy Devices must be installed and thereafter maintained in such manner as not to cause or create any threat to public health or safety, or any violation of any law. A Solar Energy Device is prohibited if, as adjudicated by a court to the extent so required by law, the Solar Energy Device (i) threatens the public health or safety, or (ii) violates a law.

(e) A Solar Energy Device is prohibited if the Association determines in writing that placement of the proposed solar energy device constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. For purposes of making a determination under this subsection, the written approval of the proposed placement of the Solar Energy Device by all Owners of adjoining property constitutes prima facie evidence that such a condition does not exist. Any such written approval by Owners of adjoining property must contain a certification that the approving Owner has received and reviewed a survey and complete plans and specifications regarding the proposed Solar Energy Device as required by **Article IV** of the Declaration and this Section, including plans and specifications which show the specific location and appearance as installed of the proposed Solar Energy Device.

(f) In addition to the general location requirements as set forth in **Section 8.14.3** hereof, a Solar Energy Device must comply with the following:

(1) No Solar Energy Device may be located on any property which is maintained by the Association, including any part of a Lot as to which the Association provides lawn or landscape maintenance, and including any part of any residence or other structure which is maintained by the Association.

(2) No Solar Energy Device may be located on a Lot at any location other than (i) entirely on the roof of the main residence located on the Lot, (ii) entirely within a fenced yard area of the Lot, or (iii) entirely within a fenced patio located in the back yard of the Lot.

(g) A Solar Energy Device which is mounted on the roof of the main residence of the Lot must comply with the following:

(1) No portion of the Solar Energy Device may extend higher than or beyond the roof line, or extend beyond the perimeter boundary or boundaries of the roof section to which it is attached.

(2) The Solar Energy Device must conform to the slope of the roof to which attached, and must have a top edge that is aligned parallel to the roof ridge line for the roof section to which attached.

(3) The Solar Energy Device must have a frame, brackets, and visible piping or wiring that is a color that matches the roof shingles, or a silver, bronze or black tone commonly available in the marketplace.

(4) The Solar Energy Device may not have any advertising slogan, logo, print or illustration upon the solar energy device other than the standard logo, printing or illustration which is included by the manufacturer of the Solar Energy Device.

(5) The Solar Energy Device (i) must be located entirely on one side of the roof, and (ii) must be located on the roof so as not to be visible from any street or Shared Drive. Notwithstanding the foregoing, approval of an alternative roof location may be requested upon submission of proof that (ii) the alternate location will increase the estimated annual energy production of the device, as determined by using a publically available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the device if located in an area as otherwise required by this subsection, (iii) the alternative roof location provides the least visibility from any street or Shared Drive from which an increase in the estimated annual energy production can be obtained, and (iv) the increase in annual energy production is required only to provide necessary and sufficient energy production to the residence, and is not for the production of excess energy for the use by or sale to others.

(h) A Solar Energy Device which is installed within a fenced yard or patio area must comply with the following:

(1) No portion of the Solar Energy Device may extend above any part of the fencing which encloses the device.

(2) If the fence which encloses the Solar Energy Device is not solid or does not otherwise block the view of the device from the outside of the fence, the approval by the ACC as provided in **Section 8.14.2** may require the device be located behind a structure or otherwise require visual screening.

(3) The ACC may consider approval of a Solar Energy Device on a Lot without a fenced yard or patio if adequate screening is provided to block or minimize visibility of the device from any street or Shared Drive as determined by the ACC as provided in **Section 8.14.2**.

8.14.10 Display of Certain Religious Items.

(a) Subject to other applicable provisions of this Section, the Association may not prohibit or restrict an Owner or resident from displaying or affixing one or more religious items on the entry to their residence. Such items include anything related to any faith that is motivated by the Owner's or resident's sincere religious belief.

(b) Individually or in combination with each other, the items at any entry may not exceed 25 square inches total in size.

(c) The items may only be displayed on or attached to the entry door or door frame, and may not extend past the outside edge of the door frame.

(d) To the extent allowed by the Texas state constitution and the United States constitution, any such displayed or affixed religious items may not (i) threaten public health or safety, or (ii) violate any law; or (iii) contain language, graphics or any display that is patently offensive to a passerby.

(e) Approval from the ACC is not required for displaying or affixing religious items so long as displayed or affixed strictly in compliance with this Section. This Section does not otherwise authorize use of any materials or colors for an entry door or door frame or any alterations to the entry door or door frame unless approved in writing by the ACC.

(f) The Association may remove any religious items displayed in violation of this Section as provided in Section 202.018 of the Texas Property Code.

8.14.11 Adjacent Lot Use.

(a) As provided in Texas Property Code, Section 209.015, in this Section "Adjacent Lot" means (i) a Lot that is contiguous to another Lot that fronts on the same street or Shared Drive, or (ii) with respect to a corner Lot, a Lot that is contiguous to the corner Lot by either a side property line or a back property line. Adjacent Lot does not include, and this Section does not permit or apply to, any Lot that is contiguous to another Lot at the back property line.

(b) In accordance with this Declaration, each and every Lot within the Subdivision must have a single family residence constructed thereon. It is accordingly the intent hereof that no Adjacent Lots will be located within the Subdivision. To the extent any Adjacent Lot is required by law to be permitted within the Subdivision by law, the following provisions will apply to each such Adjacent Lot:

(1) In this Section use of any Adjacent Lot for "residential purpose" as defined in Texas Property Code, Section 209.015 does not include, and this Section does not permit or apply to, use of an Adjacent Lot for parking or storage of any recreational vehicle.

(2) Through use of landscaping, fencing (including hedges as provided in the Declaration) or otherwise, the overall appearance of the Adjacent Lot and the Lot to which the Adjacent Lot is adjoined must be integrated such that the Adjacent Lot and the adjoined Lot appear so far as practicable to be one Lot.

(3) THE OWNER OF EACH ADJACENT LOT MUST PAY ALL REGULAR, SPECIAL AND SPECIFIC ASSESSMENTS AS TO THE ADJACENT LOT AT THE SAME RATES AND IN THE SAME MANNER AS OTHERWISE APPLICABLE TO THE ADJOINED LOT.

(4) NOTHING IN THIS SECTION, OR IN THIS DECLARATION OR IN ANY OTHER GOVERNING DOCUMENTS, REQUIRES DECLARANT, AN AUTHORIZED BUILDER OR ANY OTHER OWNER OR PERSON TO SELL ANY LOT TO ANY PERSON FOR USE AS AN ADJACENT LOT.

8.14.12 Compost Sites.

(a) Subject to applicable provisions of this Section, the Association may not prohibit or restrict an Owner from (i) implementing measures to promote solid-waste composting at a location on the Owner's Lot (a "Compost Site") of vegetation, including grass clippings, leaves or brush, or (ii) leaving grass clippings uncollected on grass.

(b) No more than one Compost Site is permitted on each Lot. The Compost Site on each Lot must be located in an area of the yard which is (i) behind the front building setback and completely enclosed by fencing, or (ii) contained completely within a fenced back yard patio area.

(c) Each Compost Site must be approved by the ACC as provided in **Section 8.14.2**, including as to size, type, shielding and materials.

(d) Notwithstanding subsection (a)(ii), grass clippings may not be allowed to accumulate to the extent or in such manner as to cause or create a fire or health hazard, or an unsightly or unkempt condition to a person of ordinary sensibilities.

8.14.13 Xeriscaping.

(a) Subject to applicable provisions of this Section, the Association may not prohibit or restrict an Owner from (i) implementing an efficient irrigation system, including underground drip or other drip system, or (ii) using drought-resistant landscaping or water-conserving natural turf.

(b) Use of gravel, rocks, cacti or similar ground cover, or use of artificial turf is permitted only to the extent expressly approved by the ACC.

(c) All above-ground components and devices as to each irrigation system must be installed or shielded as approved by the ACC so as not to be visible from any street or Shared Drive, and are also subject to other reasonable requirements of the ACC regarding installation and visibility limitations for aesthetic purposes which do not restrict water conservation.

(d) Detailed plans and specifications must be submitted to and approved by the ACC for installation of drought-resistant landscaping or water-conserving natural turf to ensure to the extent reasonably practicable maximum aesthetic compatibility with other landscaping in the Subdivision, and compliance with other applicable provisions of this Declaration, and other applicable Architectural Guidelines and/or Rules and Regulations, if any. The ACC may not unreasonably deny or withhold approval of drought-resistant landscaping or water-conserving natural turf, or unreasonably determine a proposed installation is aesthetically incompatible with other landscaping in the Subdivision.



(e) Declarant during the Development Period, and the Board or the ACC thereafter, are hereby specifically authorized to adopt specific Architectural Guidelines and/or Rules and Regulations to encourage or require water-conserving irrigation or turf, and/or water-conserving and/or drought-resistant landscaping.

8.14.14 Standby Electric Generators.

(a) Subject to other applicable provisions of this Section, the Association may not prohibit or restrict installation, operation or maintenance of a permanently installed standby Electric Generator by an Owner on the Owner's Lot.

(b) "Standby Electric Generator" means a device that converts mechanical energy to electrical energy and is:

- (1) permanently installed;
- (2) powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen;
- (3) fully enclosed in an integral manufacturer-supplied sound attenuating enclosure;
- (4) connected to the main electrical panel of a resident by a manual or automatic transfer switch; and
- (5) rated for a generating capacity of not less than seven kilowatts.

(c) A Standby Electric Generator must be installed and continuously maintained in compliance with the manufacturer's specifications, and with all applicable governmental health, safety, electrical and building codes, including as to (i) all electrical, plumbing and fuel line connections, all applicable natural gas, diesel fuel, biodiesel fuel or hydrogen fuel line connections, and all liquefied petroleum gas fuel line connections, and (ii) any non integral Standby Electric Generator fuel tanks. All liquefied petroleum gas fuel lines must also be installed, connected and continuously maintained in accordance with applicable rules and standards promulgated and adopted by the Railroad Commission of Texas.

(d) Each Standby Electric Generator and its electrical lines and fuel lines must be maintained in good condition at all times. Any deteriorated or unsafe components must be promptly and properly repaired, replaced or removed.

(e) A Standby Electric Generator must comply with the location requirements of **Section 8.14.3**. A Standby Electric Generator must be screened if it is:

- (1) visible from the street or Shared Drive faced by the applicable residence;
- (2) located in an unfenced side or rear yard of the residence, and is visible either from an adjoining residence or from adjoining property owned by the Association; or

(3) located in a side or rear yard fenced by a wrought iron or residential aluminum fence, and is visible through the fence either from an adjoining residence or from adjoining property owned by the Association.

(f) In addition to the requirements as set forth in subsection (e) above, a Standby Electric Generator must be located and screened to the extent reasonably achievable to minimize its visibility and noise impact as to any adjoining street or Shared Drive, any recreational reserve or similar common area, or any adjoining or area Lots. Notwithstanding the foregoing, the ACC may not require a location based on this subsection (f) if the required location would (i) increase the cost of installing the Standby Electric Generator by more than 10 percent, or (ii) increase the cost of installing and connecting the electrical and fuel lines for the Standby Electric Generator by more than 20 percent.

(g) The use of a Standby Electric Generator is prohibited to generate all or substantially all of the electrical power to the applicable residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence. A Standby Electric Generator may be periodically tested only in accordance with the manufacturer's minimum testing recommendations.

(h) Installation of a Standby Electric Generator must be approved by the ACC. In any hearing, action or proceeding to determine compliance with this Section, the party asserting noncompliance bears the burden of proof.

(i) The ACC is not required to approve any Standby Electrical Generator which does not fully meet the above definition of the same, including any Standby Electrical Generator rated for a generating capacity of less than seven kilowatts. Except to the extent otherwise expressly provided in this Section, the ACC is not required to approve, and this Section need not be applied to any other similar device for converting mechanical energy to electrical energy.

8.14.15 Amendments. Without limitation of any other provisions of this Declaration or any other Governing Documents, Declarant during the Development Period and the Board or the ACC thereafter are hereby specifically authorized to amend any of the provisions of this **Section 8.14** regarding Protected Property Uses and Devices by amendment of this Declaration and/or by adoption or amendment of Architectural Guidelines and Rules and Regulations, subject to applicable provisions of the Texas Property Code and other applicable law.

## **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 affecting the Subdivision or any Lots and filed in the Official Public Records of Real Property of Harris County, Texas, 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 inturns 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 boundary line fencing as originally constructed during the Development Period by or with the approval of Declarant, (ii) any utilities or Community Properties as described in this Section, 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; "Emergency" Defined.

(a) 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 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.

(b) As used in this Section (and in this Declaration, and in any other Governing Documents when applicable), "emergency" means (i) any condition which may or does cause an imminent risk of infestation by termites, rats or other vermin, or any other health, fire or safety hazard, (ii) any condition which may or does cause water infiltration in to another Lot, Community Properties or any improvements located thereon, and (iii) any other thing, condition or exigent circumstances which may or does present an imminent risk of harm or damage to any Lot or Community Properties, or any improvements thereon or to any Owners or occupants thereof. The determination of the Board or its Related Parties that an emergency exists is final.

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, 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 ACC 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 ACC 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 during the Development Period, or (ii) to grass, or to customary, non-exotic flower and shrubbery beds. The ACC 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 ACC also may not approve construction of any addition to a residence or garage as originally constructed during the Development Period 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 ACC 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 ACC.

**SECTION 9.04 Association Blanket Access Easement.** The Association and its Related Parties (including the ACC) 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 reasonable 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 AND SERVICE VEHICLE ACCESS, AND TO ASSESS THE COST OF REMOVAL TO THE OWNER OF THE OBSTRUCTION.

9.05.2 Utilities.

(a) Easements as shown on an applicable recorded Plat or otherwise of record and rights of entry to them for installation, maintenance and operation of utilities and drainage facilities are reserved. Within these easements, no structure, planting or other materials may be placed or permitted to remain which may damage or interfere with the installation, maintenance or operation of utilities. All 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 easements, streets or Shared Drives. No public or quasi-public authority or utility is liable for damage to any plants, structure or buildings located in or on such easements, streets or Shared Drives because of the installation, maintenance or operation of the utility facilities.

(b) In addition to all other applicable easements as established herein or by any Plat, a private non-exclusive easement is hereby granted under any street or Shared Drive located within the Subdivision for purposes of erecting, installing, operating, maintaining, replacing, inspecting and removing any electrical, water, sewer, gas, cable television and any other utilities as determined by the Board, together with rights of ingress and egress to or from any such easement. This easement does not include by implication or otherwise any appurtenant aerial easement.

(c) No pipe, conduit, cable, or line for water, gas, sewage, drainage, steam, electricity or any other energy or utility service may be installed or maintained (outside of any building) above the surface of the ground upon any Lot or at any other place within the Subdivision unless otherwise approved in writing by Declarant during the Development Period or the Board thereafter.

(d) Declarant during the Development Period and the Board thereafter may at any time extend any part of or all of the Drainage Easements established by Section to permit temporary or permanent usage of the same for the purposes of installing, maintaining, repairing, replacing or removing any utilities, including but not limited to, water, sewer, gas, electric, cable or telecommunication (a "Utility Easement"). Without limitation, the foregoing includes the right of Declarant during the Development Period to locate and maintain upon any Lot or Community Properties any meters, submeters, backflow valves and any other lines, pipes, equipment or facilities related to providing of any utilities and/or related services to the Subdivision, or to any Lot or the Community Properties. The provisions hereof regarding encroachments also apply to any Utility Easements.

9.05.3 Certain Subdivision Facilities.

(a) Declarant during the Development Period 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 during the Development Period or the Board at any time may 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 deemed established regarding, covering and as to any facilities placed or constructed upon any Lot or Community Properties as provided by subsection (a) above, together with reasonable working space and necessary rights of ingress, egress and regress, for purposes of the installation, maintenance, operation, repair and replacement of the facilities. Declarant or the Association may file, but are not required to file, a formal easement or easements covering any such facilities in the Official Public Records of Real Property of Harris County, Texas, either during or after 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 easements (x) for continuing placement of the A/C Unit(s) thereon, and (y) for maintenance, repair and replacement of the A/C Unit(s) in substantial compliance with the original installation of the A/C Unit(s). To the extent the Owner of the Lot with the encroaching A/C Unit(s) or their Related Parties do not otherwise have reasonable outside access from the front of the residences to the rear of the residence, the Owner of the encroached upon property is also deemed to have granted a perpetual easement for ingress, egress and regress around the A/C Unit(s) and over the encroached upon property to the extent reasonably necessary for such access. Fencing along the common boundary line along which one or more A/C Units encroach, is prohibited unless approved by the ACC.

(b) A/C Unit Banks. Without limitation of the preceding subsection, during the Development Period 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 regarding placement, maintenance, operation, repair and replacement 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.

9.05.5 Other Easements. Declarant during the Development Period and 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

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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 in the Official Public Records of Real Property of Harris County, Texas.

SECTION 9.06 Access.

9.06.1 Egress/Regress to Public Way Required. All single family residences must be constructed, and thereafter 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 building codes and ordinances.

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, 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 with 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, their tenants, their Related Parties, and all other Persons, in accordance with applicable 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 not to exceed four feet from each side of any street or Shared Drive, and as to as much additional surface of each Owner's Lot per **Section 9.04** as reasonably necessary for the installation, maintenance, repair, or replacement of any street or Shared Drive and related improvements.

SECTION 9.07 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 law.

**ARTICLE X**  
**GENERAL PROVISIONS**

SECTION 10.01 Development Period. All provisions 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. The Association, its successors and assigns, and any Owner have the right to enforce observance and performance of all restrictions, covenants, conditions and easements set forth in this Declaration and in other 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.

10.02.2 Confidentiality. In order to encourage open communications between the Association and its Related Parties and any Owner, tenant, their Related Parties and other affected parties, and in an effort to minimize confrontations among neighbors and other affected parties, the identity of all Persons who provide or from whom any violation report is obtained will so far as practical be kept confidential except as otherwise required by law. In like manner, all documentation and other communications relating to any such violation reports will be kept confidential. The foregoing does not preclude the Association from disclosing any of the foregoing information when in the opinion of the Board the best interests of the Association requires such disclosure, and all Owners hereby consent to such disclosure.

10.02.3 Verification of Defaults; Notices of Non-Compliance.

(a) Declarant, the Association or any of their Related Parties may photograph any violations or suspected violation at any time and otherwise obtain evidence to confirm the existence or nonexistence of any suspected violation in any reasonable manner without liability in trespass or otherwise. Upon request, each Owner, tenant and their Related Parties must fully cooperate with Declarant, the Board and their Related Parties regarding verification of the existence or nonexistence of any violation, including conducting of on-site inspections and in any other reasonable manner. No notice of any kind is required regarding verification which does not require entry into any area enclosed by any Lot Fencing or into the interior of a residence. Otherwise, the notice provisions of **Section 9.03** apply.

(b) At any time the Board determines there exists any noncompliance with any provisions of this Declaration or other Governing Documents, the Board may at its option direct that a Notice of Noncompliance be filed in the Official Public Records of Real Property of Harris County, Texas 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.

10.02.4 Liabilities and Indemnities Resulting from Violations.

(a) Definitions. The following definitions apply in this Section (and in this Declaration and other Governing Documents as applicable):

(1) "Claim(s)" means the assertion of any legal right, including without limitation, demands or legal actions (whether filed or threatened), alleging responsibility for any Loss.

(2) "Compliance Costs" means court costs of every kind at all levels, and all attorney's fees and all other costs or expenses of every kind incurred to investigate, prepare, prosecute, defend or settle any Claim, Loss or Violation by any means, including any legal action or alternative dispute resolution proceeding. The foregoing includes without limitation any and all costs, expenses and attorney's fees incurred (i) to establish the right to be indemnified, defended and/or held harmless, (ii) to investigate or establish any Violation, (iii) for expert witness fees, charges or expenses (including consulting and expert witnesses), (iv) for depositions and any other discovery proceedings, (v) regarding any enforcement action or proceeding, including as incurred in connection with the judicial or nonjudicial foreclosure of the Association's assessment lien and the prosecution or defense of any Claims relating to any such foreclosure proceedings, and including as to any other successful actions or proceedings as to any defense, counterclaim or cross claim asserted as to any enforcement action or proceeding, and (vi) for all sums of money which Declarant, the Association or their Related Parties may pay or become liable to pay as a consequence, directly or indirectly, in whole or in part, of any Claim, Loss or Violation and whether incurred prior to, during or after proceedings in a court of competent jurisdiction.

(3) "Loss(es)" means any actual or alleged liability, cost or expense (including Compliance Costs), loss, damage (including actual, consequential and punitive), injury, hurt, physical harm to or death of any natural Person, harm to or impairment, loss or diminution in the value of tangible or intangible property or its use, judgment or penalty of whatsoever nature, kind or description.

(4) "Violation(s)" means (whether or not capitalized) any breach of or failure to comply with any covenant, condition, restriction, easement, obligation, responsibility or duty pursuant to this Declaration or any other Governing Documents, whether by commission or omission.

(b) Liability; Indemnity. EACH OWNER AND EACH TENANT OF AN OWNER WHO COMMITS, OR WHO IS RESPONSIBLE FOR, A VIOLATION OR VIOLATIONS OF ANY OF THE PROVISIONS OF THIS DECLARATION OR ANY OTHER GOVERNING DOCUMENTS, IRRESPECTIVE OF ANY NEGLIGENCE OR OTHER FAULT (OR LACK THEREOF), IS JOINTLY, SEVERALLY AND STRICTLY LIABLE FOR PAYMENT AS APPLICABLE TO DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES FOR, AND MUST INDEMNIFY, DEFEND AND HOLD AND SAVE HARMLESS AS APPLICABLE DECLARANT. THE ASSOCIATION AND THEIR RELATED PARTIES FROM, ANY CLAIM, COMPLIANCE COSTS OR LOSS ARISING, DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, OR AS OTHERWISE INCURRED OR ATTRIBUTABLE TO ANY SUCH VIOLATION(S).

(c) Liability for Conduct of Others ("Related Parties"). Each Owner and the tenant of each Owner must ensure that their respective Related Parties strictly comply with all applicable provisions of this Declaration and all other 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. To the same extent as aforesaid each Owner and each tenant must indemnify, defend and hold and save harmless as applicable Declarant, the Association and their Related Parties from any Claim, Compliance Costs or Loss made or asserted by Related Parties of the Owner or the Owner's tenant attributable directly or

indirectly, to any such violation, said indemnification to be secured and paid as provided in this Section.

(d) Specific Assessment; Payment. All Compliance Costs and/or Losses as provided in this Section will be assessed as specific assessments, and are secured by the continuing lien established by **Article V** hereof. All such sums are due and payable upon demand as applicable by Declarant, the Association or their Related Parties without the necessity of any other or further notice of any act, fact or information concerning the rights of Declarant, the Association or their Related Parties are the liabilities of the applicable Owner, Owner's tenant or Related Parties of either under this Section; provided, in the case of indemnification the demand must contain a statement setting forth the payment or liability to pay with sufficient detail to identify the basis for the payment or liability to pay.

#### 10.02.5 Fines.

(a) Subject to **Section 10.02.7**, fines may be imposed as specific assessments by the Board for any violation of this Declaration or other 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 and the frequency for the assessment thereof, such as monthly, weekly or daily until the violation is fully cured and notice of curing is given to and received by the Association. Alternatively 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 second or subsequent violation meaning any violation which is similar to any prior violations which occur within six months after the date of the first violation notice given in accordance with Chapter 209 of the Texas Property Code.

(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 this Declaration or other Governing Documents (other than non-payment of assessments). The \$75.00 fine will be assessed for each calendar month or any part thereof during which the violation continues, commencing with the calendar month following expiration of thirty days from the date notice of the violation is given in accordance with Chapter 209 of the Texas Property Code. The foregoing provisions are in addition to any other costs and expenses for which the violating Owner (and the Owner's tenant(s), as applicable) are responsible under this Declaration or any other Governing Documents.

10.02.6 Filing of Notices of Non-Compliance. At any time the Board determines there exists any noncompliance with any provisions of this Declaration or other Governing Documents, the Board may at its option direct that a Notice of Noncompliance be filed in the Official Public Records of Real Property of Harris County, Texas 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.

10.02.7 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 this Declaration or other 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.

10.02.8 No Waiver; Cumulative Rights. Failure of the Association or any Owner to enforce any of the provisions of this Declaration or any other 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 this Declaration or any other Governing Documents. Each right and remedy set forth in this Declaration and any other Governing Documents is separate, distinct and non-exclusive, and all are cumulative. The pursuit of any right or remedy so provided for or by 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 in the Official Public Records of Real Property of Harris County, Texas, 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. Except as otherwise expressly herein provided, and subject to applicable provisions of Exhibit "B" hereto, the Owners of sixty-seven percent (67%) of the total number of Lots then contained within the Subdivision always 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, from time to time and at any time, to amend this Declaration without joinder 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 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 or regulation, or to any decisions of the courts regarding the same, including, without limitation regarding the foregoing or regarding Declarant's authority to otherwise amend this Declaration or any other Governing Documents, as required to conform this Declaration or any other Governing Documents to, or as deemed necessary or appropriate by the Board as a result of, any amendments to the Texas Property Code.

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 the amending instrument in the Official Public Records of Real Property of Harris County, Texas, 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 or termination of any provisions of this Declaration or other Governing Documents.

SECTION 10.05 Notices.

10.05.1 General; "Notice" Defined.

(a) "Notice" means and refers to all notices or other communications permitted or required under this Declaration, as amended, or by law, including as provided in **Section 10.02.7** regarding certain statutory notices. 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, all in accordance with this **Section 10.05**. Notices by mail must be by deposit of the notice, enclosed in a postpaid properly addressed wrapper, in a post office or official depository under the case and custody 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). Any such personal delivery may be acknowledged either by the recipient or by a third-party delivery service or common carrier.

10.05.2 To Whom and Where Given.

(a) 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 at Declarant's principal office. **NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF, ALL NOTICES TO DECLARANT MAY BE GIVEN ONLY BY PERSONAL DELIVERY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

(b) Association or ACC. All notices to the Association or the ACC during the Development Period must be given to Declarant as above provided. Thereafter, all notices to the Association or the ACC must be given (i) to the Association's registered agent at its registered office in accordance with the records of the Texas Secretary of State, or (ii) to any Director in the case of the Association or to any member of the ACC in the case of the ACC in the same manner as permitted for delivery of notice to the Director or member of the ACC as an Owner, or (iii) if the Association has a Managing Agent, then to the Association manager at the offices of the Managing Agent, or (iv) in accordance with the Association's most recently filed management certificate.

(c) Owners; Tenants. All notices to an Owner must be delivered to the Owner at the Owner's Lot address, or to the Owner's alternate street mailing address provided to the Association by the Owner as hereafter set forth. All notices to the tenant of an Owner must be delivered to the Lot address of the Lot at which the tenant resides.

(d) By Electronic Means. In lieu of (or in addition to) delivery to a street mailing address as above provided, notice may be given by Electronic Means (i) to an Owner or Owner's tenant according to the records of the Association, or (ii) to the Association, the ACC or the Association's Managing Agent, if any, in accordance with procedures as provided by the same upon written request of any Owner or tenant, or as otherwise provided by the Association (such as by publication in an Association newsletter, or as set forth in the Association's most recently filed management certificate).

(e) Owner/Tenant Responsibilities as to Electronic Means. **IT IS THE OBLIGATION OF EACH OWNER AND THEIR TENANT(S) TO OBTAIN AND MAINTAIN CONFIRMATIONS OF RECEIPT OF ALL NOTICES AND OTHER COMMUNICATIONS FROM THE ASSOCIATION OR DECLARANT BY ELECTRONIC MEANS, AND TO PROVIDE THE SAME TO THE ASSOCIATION OR DECLARANT UPON REQUEST. 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 10.05.3, 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, INCLUDING THIS **SECTION 10.05**, AND IN ACCORDANCE WITH THE BYLAWS AND OTHER GOVERNING DOCUMENTS. AS TO EACH OWNER AND EACH TENANT, ONCE THE MEANS OF COMMUNICATION BY ELECTRONIC MEANS IS ESTABLISHED, THOSE MEANS MUST REMAIN IN EFFECT UNLESS AND UNTIL THE EXPIRATION OF FIVE BUSINESS DAYS FOLLOWING RECEIPT OF NOTICE BY THE ASSOCIATION STATING ALL APPLICABLE CHANGES REQUIRED FOR SUBSEQUENT COMMUNICATIONS BY ELECTRONIC MEANS.

(f) When Delivered. Notices or other communications are considered to be delivered, as applicable, on the day of personal delivery or deposit in the United States mail in accordance with this **Section 10.05**, or on the day and at the time the communication by Electronic Means is successfully transmitted, provided that transmission of any facsimile or email after 5:00 o'clock p.m. and before 8:00 o'clock a.m. of the following day, local time of the recipient, is deemed to be delivered at 8:00 o'clock a.m. on the following day.

(g) 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**.

10.05.3 Owner/Tenant Contact/Occupancy Information Required.

(a) 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, and the name(s) of any other person(s) occupying the Lot other than the Owner. Not later than thirty days after acquiring 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. 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.

(b) Required Procedure. ANY NOTICE UNDER SUBSECTION (a) ABOVE, INCLUDING ANY CONTACT INFORMATION NOTICE OR REPLY TO A REQUEST FOR CONTACT INFORMATION, MUST BE GIVEN SEPARATELY AND FOR THE SOLE PURPOSE OF PROVIDING THE CONTACT OR OTHER INFORMATION. FOR EXAMPLE, SENDING AN EMAIL FROM A DIFFERENT OR NEW EMAIL ADDRESS, OR INCLUDING A NEW EMAIL ADDRESS IN A COMMUNICATION SENT FOR OTHER PURPOSES, DOES NOT CONSTITUTE NOTICE AND DOES NOT IN ANY MANNER OBLIGATE THE ASSOCIATION TO MAKE ANY CHANGE IN THE RECORDS OF THE ASSOCIATION BASED THEREON.

(c) Conflicts; Effective Date of Change. IN THE EVENT OF ANY CONFLICT BETWEEN ANY NOTICES RECEIVED BY THE ASSOCIATION, THE NOTICE LAST RECEIVED BY THE ASSOCIATION WILL CONTROL. EACH NOTICE RECEIVED BY THE ASSOCIATION WILL CONTROL UNTIL THE EXPIRATION OF FIVE BUSINESS DAYS FOLLOWING RECEIPT OF A PROPER SUBSEQUENT NOTICE.

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 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.

SECTION 10.06 Contact/Other Information To and From Mortgagees. AS USED IN THIS SECTION, "MORTGAGE" MEANS AND REFERS TO ANY MORTGAGE, DEED OF TRUST AND ANY OTHER LIEN OR ENCUMBRANCE AGAINST A LOT, AND "MORTGAGEE" MEANS AND REFERS TO THE CURRENT HOLDER OF EACH MORTGAGE. Upon written request of the Association an Owner must provide to the Association a written statement setting forth the name, mailing address, telephone number, and if known or reasonably ascertainable, the facsimile number and email address of each mortgagee for each mortgage covering the Owner's Lot, and each insurer or guarantor thereof, and as to each such mortgagee, 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 the insurer or guarantor of a mortgage, and upon receipt of written request of any mortgagee or the insurer or guarantor of a mortgage, the Association will provide to such mortgagee, insurer or guarantor, 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 assessments (regular, special or specific) to the Association, upon written request of the Association a mortgagee, 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. EACH OWNER EXPRESSLY CONSENTS TO THE ASSOCIATION PROVIDING SUCH INFORMATION TO A MORTGAGEE, INSURER OR GUARANTOR, AND TO A MORTGAGEE, INSURER OR GUARANTOR PROVIDING SUCH INFORMATION TO THE ASSOCIATION.

SECTION 10.07 Managing Agent. Declarant during the Development Period or the Board at any time may retain, hire, employ or contract with any 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 ACC 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 applied whether or not provided for in any applicable contract or agreement, and notwithstanding any contrary provisions in any contract or agreement.

SECTION 10.08 Construction.

10.08.1 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.

10.08.2 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.

10.08.3 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 10.09 Joinder. **CND-Westbury Estates, LLC**, a Texas limited liability company, as the current Owner of record of all Lots in the Subdivision not owned by Declarant, by execution hereof hereby adopts, ratifies and confirms this Declaration, including Exhibits "A" and "B" to this Declaration. Declarant, **Weekley Homes, LLC**, a Delaware limited liability company authorized to do business in Texas, currently holds contractual rights to acquire record ownership of all Lots, and by virtue thereof is the current holder of equitable title to all Lots. Notwithstanding the definition of "Owner" herein or any other provisions hereof, if at any time up to the Initial Sale of the last Lot in the Subdivision **Weekley Homes, LLC** is not the Owner of record of a Lot in the Subdivision, **Weekley Homes, LLC** will nonetheless be deemed to be an Owner of one or more Lots by virtue of its equitable title as to any Lot through the Initial Sale of the last Lot in the Subdivision.

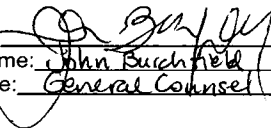
SECTION 10.10 Effective Date. This Declaration is effective from and after the date of filing of same in the Official Public Records of Real Property of Harris County, Texas, subject to amendment in accordance with this Declaration.

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

EXECUTED this 30<sup>th</sup> day of January, 2017.

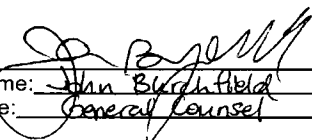
WEEKLEY HOMES, LLC,  
a Delaware limited liability company  
"Declarant"

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

By:   
Name: John Burchfield  
Title: General Counsel

CND-Westbury Estates, LLC,  
a Texas limited liability company

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

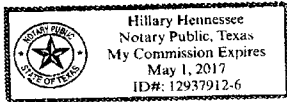
By:   
Name: John Burchfield  
Title: General Counsel

**ACKNOWLEDGMENTS**

STATE OF TEXAS                   §  
   §  
COUNTY OF HARRIS           §

This instrument was acknowledged before me on the 30<sup>th</sup> day of January, 2017, by John Bruchfeld, 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]



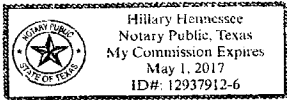
[Signature]  
Notary Public, State of Texas

Printed Name: Hillary Hennessee  
My Commission Expires: May 1, 2017

STATE OF TEXAS                   §  
   §  
COUNTY OF HARRIS           §

This instrument was acknowledged before me on the 30<sup>th</sup> day of January, 2017, by John Bruchfeld, as General Counsel of DM WEEKLY, INC., a Delaware corporation, on behalf of the corporation acting as the Manager of CND-WESTBURY ESTATES, LLC, a Texas limited liability company, on behalf of the company.

[SEAL]



[Signature]  
Notary Public, State of Texas

Print Name: Hillary Hennessee  
My Commission Expires: May 1, 2017

RP-2017-42116

**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 The Enclave at Willow Park (Westbury Estates), 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 30 day of JANUARY, 2017.

FC-IV FINANCIAL LLC  
(Print Name of Mortgagee/Lienholder)  
By: [Signature]  
Name: TODD ATKEN  
Title: Executive Vice President

STATE OF TEXAS                   §  
  §  
COUNTY OF HARRIS           §

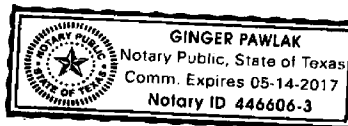
This instrument was acknowledged before me on the 30 day of JANUARY 2017, by TODD ATKEN as Executive Vice President of FC-IV FINANCIAL LLC a Delaware Limited Liability Company on behalf of the said entity.

[SEAL]

[Signature]  
Notary Public, State of Texas

Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

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RP-2017-42116

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

**FOR**

**THE ENCLAVE AT WILLOW PARK  
(WESTBURY ESTATES)**

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

A1.0 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, COMMUNITY PROPERTIES.

A3.01 Property Conditions and Other Matters of Record.

A3.01.1 Development Period. 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, VISUAL IMPACT, AND OTHER INCONVENIENCES, DISTURBANCES, ANNOYANCE AND VARIANCES FROM AVERAGE OR NORMAL CONDITIONS WITHIN THE SUBDIVISION. 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.

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 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. If the Subdivision is located in the proximity of an airport then Lots and the residences thereon as well as the Community Properties and Community Properties within the Subdivision may be located in a presents or future flight path. Air traffic and other airport activities may result in noises, odors, visual impacts, and other inconveniences, disturbances and annoyances to residents in the Subdivision. Property within the Subdivision, including Lots, may also be or become subject to ordinances and/or other regulations which restrict the uses of the property that interfere with airport operations. Declarant, the Association and their Related Parties have no control over the development, use, occupancy, appearance, operation or any other conditions regarding any airport properties, and have no duties or responsibilities whatsoever regarding the same. 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 AND TO DETERMINE SUITABILITY OF RESIDENCY OR OCCUPANCY WITHIN THE SUBDIVISION.

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 and 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 does not damage or interfere with another Lot or the Community Properties and does not adversely affect Prevailing Community Standards, and subject in all cases to applicable provisions of **ARTICLE IV** of the Declaration regarding ACC review and approval.

A3.01.5 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 Declaration and all other applicable Governing Documents.

A3.01.6 Notice Regarding Annexation. As provided in **Section B.901** of Exhibit "B" to the Declaration, Declarant retains the right, among others, to annex additional properties into the Subdivision at any time during the Development Period.

A3.01.7 Other Restrictions. In addition to and without limitation of any provisions of this 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 matters 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 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 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 AND LIABILITIES OF ANY KIND WHATSOEVER AS TO ALL SUCH MATTERS AND CONDITIONED, INCLUDING WITHOUT LIMITATION ALL "CLAIMS," "COMPLIANCE COSTS" AND "LOSSES" (AS DEFINED IN SECTION 10.02.4 OF THE DECLARATION) AND INCLUDING WITHOUT LIMITATION WITH REGARD TO 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 ACC, 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**

**THE ENCLAVE AT WILLOW PARK  
(WESTBURY ESTATES)**

**EXHIBIT "B": DEVELOPMENT PERIOD**

B1.01 Application. Notwithstanding any other provisions of the Declaration or any other 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 the Declaration or any other 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 Declaration or any other Governing Documents, during the Development Period (and thereafter as applicable) Declarant may exercise all rights, authority and prerogatives of Declarant as provided in or permitted by the Declaration, including this Exhibit "B", and including all other Governing Documents, independently and unilaterally, without notice to, and without the joinder, vote or consent of the Board, the ACC, any other Owner or any other Person.

B2.01.2 Declarant Control Period.

(a) Appointment of Directors, Officers and ACC Members. During the Declarant Control Period Declarant has exclusive authority to appoint, reappoint, elect, remove or replace any and all members of, and to otherwise fill any and all vacancy as to, the Board, the ACC (including any designated representative of the ACC) and any officers of the Association. Any provisions of the Declaration or any other Governing Documents which are inconsistent with or contrary to the foregoing, including any provisions regarding qualifications for members of the Board, the ACC or of any officers, are hereby specifically declared inapplicable regarding any such Directors, ACC members or officers who are appointed, reappointed, elected, removed or replaced by Declarant. During the Declarant Control Period and the Development Period Declarant also retains exclusive architectural authority pursuant to the Declaration, including **Article IV** of the Declaration, as to each Lot which is owned by Declarant or an Authorized Builder until the Initial Sale of each Lot, regardless of whether the Initial Sale occurs during or after the Declarant Control Period or the Development Period.

(b) Meetings of Owners. During the Declarant Control Period, meetings of the Owners will be primarily informational. Any annual and other meeting of the Owners during the Declarant Control Period, including the First Annual Election Meeting of the Owners, may be called and conducted in any manner permitted by the Bylaws or the Declaration or as otherwise determined by Declarant.

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(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 of the Board, the taking of any vote by the Board or the taking of any action 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.

(d) Declarant As Member. Declarant is deemed to be a Member of the Association for all purposes during the Declarant Control Period and the Development Period whether or not Declarant continues to own any Lot.

B2.01.3 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.

B2.01.4 Declarant's ACC Exemption and Authority. DECLARANT IS NOT REQUIRED TO OBTAIN BOARD OR ACC APPROVAL OR TO OTHERWISE COMPLY IN ANY MANNER WITH ANY PROVISIONS OF **ARTICLE IV** OF THE DECLARATION UNTIL INITIAL SALE OF ALL LOTS WITHIN THE SUBDIVISION, WHETHER OR NOT THE INITIAL SALE OCCURS DURING OR AFTER THE DEVELOPMENT PERIOD. AS TO EACH LOT, AND UNTIL THE INITIAL SALE OF EACH LOT, WHETHER OR NOT THE INITIAL SALE OCCURS DURING OR AFTER THE DEVELOPMENT PERIOD, DECLARANT ALSO RESERVES AND RETAINS FULL AND EXCLUSIVE ARCHITECTURAL AUTHORITY OF THE ASSOCIATION, INCLUDING AS TO THE ACC AND THE BOARD, AND THE RIGHT TO ENGAGE IN (AND TO AUTHORIZE ANY AUTHORIZED BUILDER TO ENGAGE IN) ANY AND ALL DEVELOPMENT ACTIVITIES (AS DEFINED IN **SECTION B8.01** HEREOF). 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.

B2.01.5 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 a builder which has been designated by Declarant as an Authorized Builder (if any, and whether one or more). Notwithstanding designation of a builder as an Authorized Builder, Declarant expressly reserves the right from time to time and at any time to regulate the activities of any Authorized Builder, and to limit, modify or remove any rights of an Authorized Builder. Declarant's approval of any builder does not pass to any successor builder, and may not be otherwise transferred or assigned. Declarant's right to approve (or disapprove) any builder during the Development Period may be assigned only to another "Declarant" as so designated in accordance with applicable provisions of the Declaration.

**B3.01 Declarant Authority and Exemption as to Assessments.**

B3.01.1 DURING THE DEVELOPMENT PERIOD DECLARANT IS ENTITLED TO ESTABLISHED ALL ASSOCIATION BUDGETS AND TO SET AND CHANGE THE RATE OF ANY REGULAR ASSESSMENTS AND/OR TO IMPOSE SPECIAL ASSESSMENTS AND/OR TO SET OR IMPOSE 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 THE DECLARATION. DURING THE DEVELOPMENT PERIOD DECLARANT WILL ONLY BUDGET FOR SUCH OPERATING EXPENSES OF THE ASSOCIATION AS DECLARANT DEEMS TO BE ESSENTIAL TO THE OPERATION OF THE ASSOCIATION, AND DECLARANT'S DETERMINATIONS AS TO SAME (AND AS TO ANY OTHER MATTERS PERTAINING TO THE PROVISIONS OF THIS **SECTION B3.01**) ARE FINAL. IN ADDITION TO AND NOT IN LIMITATION OF THE FOREGOING, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE DECLARATION OR ANY OTHER GOVERNING DOCUMENTS, DURING THE DEVELOPMENT PERIOD DECLARANT IS NOT REQUIRED TO BUDGET FOR OR TO OTHERWISE COLLECT ANY FUNDS FOR PAYMENT OF ANY CAPITAL EXPENDITURES (DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES), OR FOR PAYMENT TO OR FUNDING OF ANY CAPITAL, CONTINGENCY OR OTHER RESERVES.

B3.01.2 NOTWITHSTANDING ANY OTHER PROVISIONS OF THE DECLARATION OR ANY OTHER GOVERNING DOCUMENTS, DECLARANT IS EXEMPT FROM PAYMENT OF ANY ASSESSMENTS, ANNUAL, SPECIAL OR SPECIFIC, UNTIL THE FIRST DAY OF JANUARY FOLLOWING TERMINATION OF THE DEVELOPMENT PERIOD. IN THE EVENT OF RE-ACQUISITION OF OWNERSHIP OF ANY LOT BY DECLARANT, THE AFORESAID EXEMPTION AS TO PAYMENT OF ASSESSMENTS WILL AGAIN APPLY IN ACCORDANCE WITH THIS SECTION. The forgoing also applies to any Lot used by Declarant for a model residence or other development, marketing or sales purposes regardless of whether record title remains in Declarant (such as, for example but without limitation, in the case of the sale of a resident to an Owner and lease back to Declarant for use as a model). In such cases, the Initial Sale will not be deemed to have occurred until the first day of the month following termination of any such use of the Lot by Declarant. UPON TERMINATION OF THE DEVELOPMENT PERIOD THE PROVISIONS OF **SECTION B3.01.5** APPLY REGARDING DECLARANT'S OBLIGATIONS AS TO PAYMENT OF ASSESSMENTS.

B3.01.3 In lieu of payment of assessments, but subject to **Section 3.01.5**, Declarant will pay to the Association during the Development Period an amount, if any, equal to the Actual Operating Expenses of the Association less all funds available to the Association regardless of source and regardless of any principles of accrual or other accounting which might otherwise be applicable ("Deficit Funding"). "Funds available to the Association" include, without limitation, all assessments received from all other Owners subject to payment of assessments plus all other income received by the Association from any source (such as, for example, interest income). "Actual Operating Expenses" means only those expenses reasonably necessary during the Development Period for the discharge of the Association's functions and duties under the Declaration, and does not include payment of or funding for any capital expenditures (determined in accordance with generally accepted

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accounting principles), or any capital, contingency or other reserves, or any prepaid items, inventory or similar expenses attributable to periods after expiration or termination of the Development Period. Declarant will pay Deficit Funding to the Association as aforesaid from time to time as Declarant may determine. DECLARANT'S OBLIGATION FOR DEFICIT FUNDING TERMINATES UPON TERMINATION OF THE DECLARANT CONTROL PERIOD.

B3.01.4 Notwithstanding anything to the contrary herein, Declarant may pay any Deficit Funding in services or materials or a combination of services and materials rather than in money (herein collectively called "in kind payment"). The amount of any in kind payment will be the fair market value of the in kind payment.

B3.01.5 NOTWITHSTANDING ANY OTHER PROVISIONS OF THE DECLARATION, INCLUDING THIS EXHIBIT "B" OR THIS **SECTION B3.01**, DECLARANT WILL NEVER BE REQUIRED TO PAY TO THE ASSOCIATION AS ASSESSMENTS, AS DEFICIT FUNDING OR OTHERWISE AN AMOUNT GREATER THAN ONE-FOURTH OF THE AMOUNT OF REGULAR ANNUAL ASSESSMENTS WHICH WOULD OTHERWISE BE PAYABLE BY DECLARANT AS A NON-DECLARANT OWNER OF ONE OR MORE LOTS. THE FOREGOING APPLIES DURING AND AFTER THE DEVELOPMENT PERIOD.

B3.01.6 DECLARANT MAY EXEMPT, IN WHOLE OR IN PART, ANY AUTHORIZED BUILDER FROM PAYMENT OF REGULAR, SPECIAL OR SPECIFIC ASSESSMENTS TO THE FULLEST EXTENT PROVIDED IN THIS SECTION.

B3.01.7 DECLARANT MAY DEMAND AND RECEIVE REIMBURSEMENT BY THE ASSOCIATION FORM, OR MAY OTHERWISE RECEIVE REIMBURSEMENT OUT OF, ANY SURPLUS FUNDS OF THE ASSOCIATION FOR ANY AND ALL DECLARANT CONTRIBUTIONS MADE BY DECLARANT DURING THE DEVELOPMENT PERIOD. "SURPLUS FUNDS" MEANS ALL FUNDS AVAILABLE TO THE ASSOCIATION AFTER PAYMENT OF ACTUAL OPERATING EXPENSES. "DECLARANT CONTRIBUTIONS" MEANS ALL DEFICIT FUNDING OR OTHER SUBSIDY PAYMENTS BY DECLARANT, ANY OTHER MONIES PAID BY DECLARANT ON BEHALF OF OR FOR THE BENEFIT OF THE ASSOCIATION AND/OR THE SUBDIVISION, INCLUDING WITHOUT LIMITATION ALL AD VALOREM TAXES AND OTHER ASSESSMENTS IN THE NATURE OF PROPERTY TAXES PAID FOR OR FAIRLY ALLOCABLE TO ANY COMMUNITY PROPERTIES, AND ALL IN KIND PAYMENTS, IF ANY. DECLARANT MAY DEMAND AND RECEIVE REIMBURSEMENT AS AFORESAID FROM TIME TO TIME AND AT ANY TIME EITHER DURING OR WITHIN ONE YEAR AFTER THE EXPIRATION OR TERMINATION OF THE DEVELOPMENT PERIOD UNTIL DECLARANT HAS RECEIVED REIMBURSEMENT FOR ALL DECLARANT CONTRIBUTIONS. ANY REIMBURSEMENT WILL BE DUE AND PAYABLE WITHIN THIRTY DAYS AFTER DEMAND OR SUCH LONGER PERIOD AS MAY BE STATED IN THE DEMAND. REIMBURSEMENT MAY ALSO BE MADE BY THE ASSOCIATION IN INSTALLMENTS PURSUANT TO ONE OR MORE PROMISSORY NOTES OR OTHER REIMBURSEMENT AGREEMENTS. IN SUCH CASE THE INSTALLMENT PAYMENTS MAY EXTEND FOR SUCH PERIOD OF TIME AS IS REQUIRED FOR REIMBURSEMENT, NOT TO EXCEED FOUR YEARS AFTER THE EXPIRATION OR TERMINATION OF THE DEVELOPMENT PERIOD, AND THE PAYMENTS TO BE SO MADE MUST BE INCLUDED IN THE ASSOCIATION'S BUDGET OR BUDGETS UNTIL REPAYMENT IS COMPLETED. REIMBURSEMENT WILL BE WITHOUT INTEREST IF PAID WITHIN THIRTY DAYS OR SUCH LONGER PERIOD AS STATED IN THE DEMAND, OR AS PROVIDED IN ANY APPLICABLE PROMISSORY NOTE OR AGREEMENT, OR AS OTHERWISE AGREED BY

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DECLARANT. THEREAFTER, INTEREST WILL ACCRUE AT THE RATE OF EIGHTEEN PERCENT (18%) PER ANNUM OR THE HIGHEST RATE ALLOWED BY LAW, WHICHEVER IS LESS.

B3.01.8 DECLARANT'S GOOD FAITH DETERMINATION OF ACTUAL OPERATING EXPENSES, SURPLUS FUNDS, DECLARANT CONTRIBUTIONS AND ANY OTHER MATTERS PERTAINING TO THE PROVISIONS OF THIS SECTION ARE FINAL.

B4.01 Meetings of Owners; Election of Owner Directors.

B4.01.1 Annual and Other Meetings. The provisions of this **Section B4.01.1** 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 of Directors 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.

B4.01.2 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 changes as provided in the Bylaws. Except for Owner Directors elected by Owners as provided in subsections (b) and (c) below, during the Declarant Control Period Declarant has sole authority to appoint and from time to time and at any time to remove 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) 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, the Owner of each Lot, including Declarant as applicable, will have one vote for each Lot owned as to election of Owner Directors. 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.

**B4.01.3 Failure to Elect/Appoint Owner Directors.** 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 ACC 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.

**B4.01.4 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 other documents provided with each notice 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 or by Owner Directors within ten days after any applicable election or appointment.

**B5.01 Transfer of Declarant Control.** ON THE DECLARANT CONTROL TRANSFER DATE (i) ALL OFFICERS, DIRECTORS AND/OR ACC MEMBERS 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, THE ACC OR THE SUBDIVISION, AND (ii) THE ASSOCIATION AND ITS MEMBERS BECOME WHOLLY AND SOLELY RESPONSIBLE FOR THE MANAGEMENT, MAINTENANCE AND OPERATION OF THE ASSOCIATION, OF THE ACC 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 B2.01.4** REGARDING DECLARANT'S ACC EXEMPTION 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.

**B6.01 Community Properties; Landscaping.**

**B6.01.1** REGARDLESS OF DESIGNATION BY ANY PLAT, OR IN THE DECLARATION OR ANY OTHER GOVERNING DOCUMENTS OR OTHERWISE, DURING THE DEVELOPMENT PERIOD DECLARANT MAY AT ANY TIME AND FROM TIME TO TIME (i) DESIGNATE, CONSTRUCT, OR EXPAND COMMUNITY PROPERTIES, AND (ii) MODIFY, ELIMINATE, DISCONTINUE, RECONFIGURE, REDESIGN, REDESIGNATE OR IN ANY OTHER MANNER CHANGE THE COMMUNITY PROPERTIES. WITHOUT LIMITATION OF THE FOREGOING, DECLARANT SPECIFICALLY RESERVES THE RIGHT AT ANY TIME DURING THE DEVELOPMENT PERIOD TO SELL OR OTHERWISE DISPOSE OF ANY

"RESERVES" AND ANY OTHER SIMILAR AREAS, REGARDLESS OF DESIGNATION OF ANY SUCH AREA BY ANY PLAT OR OTHERWISE AS "RESTRICTED", "UNRESTRICTED", "COMPENSATING OPEN SPACE" OR OTHER DESIGNATION. NEITHER THE FOREGOING NOR ANY OTHER PROVISIONS HEREOF MAY BE CONSTRUED AS IN ANY MANNER CONSTITUTING ANY REPRESENTATION, WARRANTY OR IMPLICATION WHATSOEVER THAT DECLARANT OR ANY BUILDER WILL UNDERTAKE ANY SUCH DESIGNATION, CONSTRUCTION, MAINTENANCE, EXPANSION, IMPROVEMENT OR REPAIR, OR IF AT ANY TIME OR FROM TIME TO TIME UNDERTAKEN, THAT ANY SUCH ACTIVITIES WILL CONTINUE, AND ANY SUCH REPRESENTATION, WARRANTY OR IMPLICATION IS HEREBY SPECIFICALLY DISCLAIMED.

B6.01.2 During the Development Period Declarant may provide and construct such Community Properties as Declarant may desire. Once provided or constructed, and for so long as the same remain as part of the Community Properties, all costs and expenses of the operation, management, maintenance, repair and replacement of Community Properties, including all costs and expenses of insurance thereon and all ad valorem taxes and other assessments in the nature of property taxes covering or fairly allocable thereto, will be paid by the Association (either directly or by reimbursement to Declarant), regardless of whether or not title has been transferred or conveyed to the Association and regardless of whether or not any applicable contract, agreement or other arrangement for operation, management, maintenance, repair or replacement is in the name of, is procured through or has been transferred or assigned to the Association. The Association will also pay as aforesaid all costs and expenses, regardless of type and including procurement, as to service type Community Properties such as any patrol, or any garbage or recycling services

B6.01.3 During the Development Period Declarant may obtain water, electrical and other utilities, facilities or services on behalf of the Owners and/or the Association for the benefit of the Subdivision. In connection therewith, Declarant may also install meters and other devices, including without limitation electrical and telephone services for gates, if any, and may obtain water, electric or other services and establish accounts as to any of the same in the name of Declarant. All such utilities, facilities and services are part of the Community Properties and must be maintained as such. Declarant may transfer any such utilities, facilities or services to the Association or request that the Association do so at any time. Any request for transfer may be made in the notice requesting the Owners call and conduct the First Annual Election Meeting of Owners. All such transfers must be made at the sole costs of the Association and/or all Owners other than Declarant. Any deposits, advance payments or similar fees paid by Declarant as to any such utilities, facilities or other services must be refunded to Declarant, either directly or by reimbursement, and the aforesaid costs of transfer must include any deposits, advance payments and similar fees required for continuation of the applicable utilities, facilities or other services. All transfers as requested by Declarant in any notice, including as contained in any request that the Owners call and conduct the First Annual Election Meeting of Owners, must be completed within sixty days after the date of the notice, failing which Declarant may terminate any applicable utilities, facilities or other services, without further notice to the Association, any Owner or any other Person, and obtain or retain any applicable refunds of deposits, advance payments or similar fees.

B6.01.4 Without limitation of any other provisions hereof, it is expressly stipulated and agreed that Declarant does not represent, guarantee or warrant the viability, vitality, type, quality, quantity or continued existence, maintenance or replacement of any landscaping within or in the vicinity of the Subdivision, and no Owner or any other Person will

ever have any claim whatsoever against Declarant or Declarant's Related Parties regarding, directly or indirectly, any landscaping. The foregoing applies to any and all landscaping, whether natural or pre-existing prior to initiation of any Development Activities, whether planted or otherwise maintained as part of Development Activities, and as to any change, removal or other modification of any landscaping. All costs and expenses of maintenance, replacement and/or removal of, and all risk of loss as to, all landscaping within any Community Properties or which is otherwise maintained by the Association is the sole responsibility of the Association.

B6.01.5 Declarant may transfer, convey or assign any or all Community Properties to the Association during the Development Period, and must do so within a reasonable time after termination of the Development Period. The Association is obligated to accept any conveyance and any other transfer of ownership of any Community Properties (as so designated by Declarant during the Development Period), regardless of whether the conveyance or other transfer occurs during or after the Development Period. The Association's acceptance as aforesaid is conclusively established upon filing of the applicable instrument of conveyance or other transfer in the Official Public Records of Real Property of Harris County, Texas, or as of the date of delivery of said instrument to the Association.

B6.01.6 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. THE FOREGOING EXCLUSIONS INCLUDE, BUT ARE NOT LIMITED TO, (i) ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (ii) THE SOIL CONDITIONS, DRAINAGE, TOPOGRAPHICAL FEATURES OR CONDITIONS AT OR WHICH AFFECT THE PROPERTY; (iii) ANY FEATURES OR CONDITIONS AT OR WHICH AFFECT THE PROPERTY WITH RESPECT TO ANY PARTICULAR PURPOSE, USE, DEVELOPMENT POTENTIAL, OR OTHERWISE; (iv) THE AREA, SIZE, SHAPE, CONFIGURATION, LOCATION, CAPACITY, QUANTITY, QUALITY, VALUE, CONDITION, OR AMOUNT OF THE PROPERTY; (v) ALL EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES CREATED BY ANY AFFIRMATION OF FACT OR PROMISE, OR BY ANY DESCRIPTION OF THE PROPERTY; (vi) ANY ENVIRONMENTAL, GEOLOGICAL, STRUCTURAL, OR OTHER CONDITION OR HAZARD OR THE ABSENCE THEREOF HERETOFORE, NOW, OR HEREAFTER AFFECTING IN ANY MANNER ANY PART OF THE PROPERTY; (vii) ANY CONSEQUENCES RESULTING FROM THE PROPERTY BEING LOCATED IN ANY AREA (A) DESIGNATED AS A "FLOOD PLAIN" AND/OR (B) THAT IS CAPABLE OF RECEIVING FLOOD WATERS; AND (viii) ALL OTHER EXPRESS OR IMPLIED WARRANTIES AND REPRESENTATIONS WHATSOEVER.

B7.01 Easements.

B7.01.1 Declarant and any Authorized Builder as so designated by Declarant, and their agents or employees (including any contractor or subcontractor) are entitled during the Development Period to use and exercise all easements set forth in the Declaration for, and Declarant may grant or exercise such additional easements for ingress, egress and usage as is reasonably necessary for, construction of single family residences, providing and development

of utilities, Community Properties and any and all other Development Activities (as hereafter defined).

B7.01.2 In addition to the general easement as provided in the proceeding subsection, until the Initial Sale of all Lots Declarant and any Authorized Builder will have a temporary construction easement upon, under, over, across and above each Lot and all Community Properties for purposes of installation, construction and completion of the residence, garage and any other structures or improvements upon any adjacent Lot or Community Properties and the conducting of any other Development Activities (as hereafter defined) in relation thereto, provided that this easement will not extend in any manner to the interior of any residence or garage and may not be utilized in such manner as to block ingress or egress as to the same, and provided further that Declarant or any Authorized Builder utilizing this easement must restore any parts of the Lot or Community Properties affected by such usage to as nearly as practicable the same condition it was prior to such usage promptly upon completion of such usage.

**B8.01 Development Activities, Including Notices and Releases.**

B8.01.1 Declarant, Declarant's Related Parties, any Authorized Builder, and the constructors, sub-contractors, suppliers, vendors, sales agents, realtors and all other related personnel of Declarant or an Authorized Builder (all such Persons sometime herein referred to as "Development Personnel") have the right to transact any business and conduct any activities reasonably necessary for all construction within, and all development of, the Subdivision, and for the sale or rental of Lots and single family residences and any other improvements to be constructed within the Subdivision. All such construction, development, sales and all related business and activities, including without limitation as set forth in this **Section B8.01**, are herein referred to as "Development Activities." WITHOUT LIMITATION OF ANY OTHER PROVISIONS HEREOF, IT IS EXPRESSLY STIPULATED AND AGREED THAT DECLARANT DOES NOT REPRESENT, WARRANT OR GUARANTEE ANY SPECIFIC PERIOD OF TIME OR DATE DURING OR BY WHICH ANY AMENITIES WILL BE PROVIDED, INSTALLED, OPERATIONAL OR 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.

B8.01.2 Declarant (and any Authorized Builder), have the right to maintain models, to have, place and maintain sales and promotional signs, flags, banners and similar promotional devices within the Subdivision, to conduct from time to time an "open house" and similar events for realtors and other persons which may include without limitation leaving limited access gates (if any) open as hereafter provided, and to use for development, sales and/or promotional purposes all or any part of any Lot, including residence or other improvements located thereon, which is owned by Declarant or an Authorized Builder.

B8.01.3 IF AND TO THE EXTENT THAT ANY PATROL OR ACCESS SERVICES, STRUCTURES OR DEVICES, INCLUDING ANY CONTROLLED ACCESS GATE, GUARDHOUSE AND RELATED STRUCTURES AND DEVICES ("PATROL/ACCESS DEVICES"), ARE PROVIDED FOR THE SUBDIVISION, THEN DURING THE DEVELOPMENT PERIOD, DECLARANT RETAINS FULL AND SOLE AUTHORITY AS TO AND CONTROL OVER THE SAME. DECLARANT'S AUTHORITY AND CONTROL INCLUDES THE RIGHT IN DECLARANT'S SOLE DISCRETION TO DETERMINE THE HOURS, STAFFING AND



MANNER OF OPERATION OF ANY AND ALL SUCH PATROL/ACCESS DEVICES, IF ANY. WITHOUT LIMITATION OF THE FOREGOING, DECLARANT IS EXPRESSLY AUTHORIZED DURING THE DEVELOPMENT PERIOD TO DETERMINE IF AND WHEN ANY PATROL/ACCESS DEVICES WILL BE OR BECOME FUNCTIONAL OR OPERATIONAL, INCLUDING THE SOLE RIGHT AND AUTHORITY TO DETERMINE IF AND WHEN ANY CONTROLLED ACCESS GATE WILL BE OR BECOME FUNCTIONAL, AND 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 INVOLVED IN ANY DEVELOPMENT ACTIVITIES, BY ANY PROSPECTIVE PURCHASERS, BY ANY SALES AGENTS OR REALTORS AND BY ANY OTHER PERSONS AS DECLARANT REASONABLY DETERMINES IS NECESSARY OR CONVENIENT TO ACCOMMODATE ANY DEVELOPMENT ACTIVITIES. NO PROVISIONS OF THIS DECLARATION OR ANY OTHER GOVERNING DOCUMENTS, AND NO OTHER STATEMENTS OR COMMUNICATIONS BY DECLARANT OR THE ASSOCIATION, OR ANY RELATED PARTIES OF EITHER, WILL EVER CONSTITUTE ANY REPRESENTATIONS OR WARRANTIES BY DECLARANT, THE ASSOCIATION, OR THE RELATED PARTIES OF EITHER, CONCERNING THE HOURS, STAFFING OR MANNER OF OPERATION OF ANY PATROL/ACCESS DEVICES, OR CONCERNING ANY SAFETY OR SECURITY BENEFITS OR PROTECTION REGARDING ANY OF THE SAME, ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES BEING HEREBY EXPRESSLY DISCLAIMED.

B8.01.4 Development Personnel may or will be required to and are hereby specifically authorized to engage in construction activities, to store equipment or materials, to create accumulations of trash and debris, and to otherwise engage in activities and create conditions related to its development of the Subdivision, including the construction and sale of residences and any other improvements in the Subdivision. Any of the foregoing activities may be conducted upon or within multiple Lots, upon or within Community Properties, and/or upon or within other properties within the Subdivision, excluding any Lot after the Initial Sale of the Lot. Without limitation of the foregoing, Declarant and any Authorized Builder are specifically authorized to engage in any of the foregoing activities and any other Development Activities at any times and on any days (including Sundays and holidays) as Declarant or the Authorized Builder deems necessary, subject to Declarant's right to regulate Authorized Builders as herein provided.

B8.01.5 During the Development Period, Declarant's Development Personnel (and Development Personnel of any Authorized Builder to the extent expressly permitted by Declarant) may use for any Development Activities, without charge, any Community Properties.

B8.01.6 Declarant (and any Authorized Builder) may permit temporary toilet facilities, sales and construction offices and storage areas to be used in connection with the construction and sale of residences at such locations as Declarant may direct. Declarant may also authorize usage of garages as sales offices during the Development Period. At or prior to the date of the sale of a Lot to an Owner other than Declarant or an Authorized Builder, any garage appurtenant to the residence located on the Lot used for sales purposes 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.

B8.01.7 Development Personnel may park vehicles at any locations within or in the vicinity of the Subdivision as is necessary to conducting of any Development Activities, excluding the private driveway, if any, as to any residence which is owned by an Owner other than Declarant or an Authorized Builder and which is occupied by the Owner or their tenant.

B8.01.8 Declarant may establish any reasonable regulations as to Owners and tenants, as to the Association, the Board and/or the ACC, as to any Related Parties of any of the foregoing, and as to any other Person, which Declarant deems appropriate to avoid hindrance or interference with any Development Activities, including limiting or denying access to areas of the Subdivision, designating temporary dumping sites, maintenance of metal buildings or structures and use of Community Properties in connection with its Developmental Activities.

B8.01.9 Except as stated in **Section B8.01.5**, all provisions of this **Section B8.01** apply to each Lot owned by Declarant or an Authorized Builder until the Initial Sale of the last Lot in the Subdivision, whether or not the Initial Sale occurs during or after the Development Period.

B8.01.10 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 ACC, 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.

**B9.01 Amendment of Governing Documents; Changes in Composition of Subdivision.**

B9.01.1 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 ACC, 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, Shared Drives, 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, redesignate, 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 this Declaration and all other 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 or Shared Drive 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 this Declaration, any Plat and any other governing documents accordingly.

B9.01.2 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 notice thereof in the Official Public Records of Real Property of Harris County, Texas, or such later date as expressly provided in the applicable document.

**B10.01 Preconditions to Suit or Arbitration; Binding Arbitration; Limitations.**

B10.01.1 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 Declaration (including Exhibits "A" and "B" to the Declaration) or to any other Governing Documents, or the breach thereof, and (iv) all other matters relating directly or indirectly to any of the foregoing. A "Dispute Claimant" means the Association and any other Person asserting a Dispute on behalf of or through the Association by derivative action or otherwise. All references in this **Section B10.01** to the Association include their respective Related Parties.

B10.01.2 Required Procedures for Filing of Suit or Initiation of Arbitration Proceedings.

(a) Before a Dispute Claimant may file any suit or initiate any 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 or other conditions, 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 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

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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 or other conditions, and all modifications, maintenance, repairs and any other remedial action required as to the Dispute.

(c) Before the Dispute Claimant may file any suit or initiate any 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 a description of the Dispute and the relief sought, including estimated costs of all remedial action, the anticipated duration of prosecuting the suit and/or arbitration proceedings, a summary of all steps previously taken by the Dispute Claimant to resolve the Disputes, a description of 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 arbitration proceedings and the likelihood of success, and the manner in which the Dispute Claimant proposes to fund the costs of prosecuting the suit and/or arbitration proceedings. The notice of the special meeting as required by subsection (c) must also include copies of all applicable Dispute Notices and all reports as required by subsections (b) and (e).

(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 **B10.01.2** are subject to and without limitation of **Section B10.01.3** regarding binding arbitration and **Section B10.01.4** regarding required notices and limitations.

**B10.01.3** Binding Arbitration. Declarant may, by written request, whether made before or after expiration or termination of the Development Period, before or after initiation of any proceeding under **Section B10.01.2**, or before or after initiation of or any other legal proceedings or action, require that any Dispute be submitted to binding arbitration to be conducted in Harris County, Texas in accordance with the Construction Industry Arbitration Rules (or substantial equivalent) of the American Arbitration Association which rules are hereby

adopted regarding any such proceedings. The decision(s) of the arbitrator will be final and binding, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The initial cost of such arbitration will be borne equally by the parties, but the cost of such proceeding, including, without limitation, expert witness fees and reasonable attorney's fees, must be awarded to the prevailing party.

**B10.01.4** Notice of Dispute Required; Limitations. AS A CONDITION PRECEDENT TO ANY SUIT, ARBITRATION PROCEEDING OR ANY OTHER LEGAL ACTION, A DISPUTE NOTICE AS TO THE SAME MUST BE GIVEN AS REQUIRED BY **SECTION B10.01.2(a)** NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE ANY CLAIM OR CAUSE OF ACTION REGARDING THE DISPUTE ACCRUES. SUBJECT TO AND WITHOUT LIMITATION OF THE FOREGOING MANDATORY NOTICE REQUIREMENT, ANY SUIT, ARBITRATION PROCEEDING OR ANY OTHER LEGAL ACTION REGARDING ANY DISPUTE MUST BE FILED IN A COURT OF COMPETENT JURISDICTION OR INITIATED IN HARRIS COUNTY, TEXAS NOT LATER THAN TWO YEARS PLUS ONE DAY AFTER, THE DATE ANY CLAIM OR CAUSE OF ACTION REGARDING THE DISPUTE ACCRUES.

**B11.01** Notice 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 **Section 10.05** of the Declaration.

**B12.01** No Impairment of Declarant's Rights. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE DECLARATION OR ANY OTHER GOVERNING DOCUMENTS, NO PROVISIONS OF THIS **EXHIBIT "B"**, AND NO OTHER RIGHTS OR LIMITATIONS OF LIABILITY APPLICABLE TO DECLARANT PURSUANT TO THE DECLARATION OR ANY OTHER 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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# Pages 117  
01/31/2017 07:40 AM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
STAN STANART  
COUNTY CLERK  
Fees \$476.00

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

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