

DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
PECAN PLACE TOWNHOMES
FORT WORTH, TARRANT COUNTY, TEXAS

TABLE OF CONTENTS

ARTICLE 1	DEFINITIONS	3
ARTICLE 2	PROPERTY SUBJECT TO DOCUMENTS	7
ARTICLE 3	ASSOCIATION AND MEMBERSHIP RIGHTS	7
ARTICLE 4	USE RESTRICTIONS	10
ARTICLE 5	ARCHITECTURAL COVENANTS AND CONTROL	16
ARTICLE 6	COVENANT FOR ASSESSMENTS	17
ARTICLE 7	EFFECT OF NONPAYMENT OF ASSESSMENTS AND VIOLATION OF THE DOCUMENTS	24
ARTICLE 8	MAINTENANCE AND REPAIR OBLIGATION	27
ARTICLE 9	PROPERTY EASEMENTS AND RIGHTS	31
ARTICLE 10	INSURANCE	37
ARTICLE 11	TOWNHOME INSURANCE	39
ARTICLE 12	MORTGAGEE PROTECTION	43
ARTICLE 13	AMENDMENTS	45
ARTICLE 14	GENERAL PROVISIONS	47

DECLARATION OF
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FOR
PECAN PLACE TOWNHOMES

This Declaration of Covenants, Conditions & Restrictions (the "Declaration") for Pecan Place Townhomes is made by Uptown Fort Worth Homes, Ltd. a Texas limited liability company ("Declarant"), on the date signed below. Declarant owns the real property described in Appendix A of this Declaration, together with the improvements thereon.

Declarant desires to develop the real property with a Residential community to be known as Pecan Place Townhomes. Declarant desires to provide for the preservation and maintenance of portions of Pecan Place Townhomes, and to protect the value, desirability, and attractiveness of Pecan Place Townhomes, Declarant deems it advisable to establish the Covenants, Conditions and Restrictions as set forth herein and to create an Association to perform the functions and activities, as more fully described in this Declaration.

Declarant hereby declares that the real Property described in Appendix A is subject to this Declaration and shall be held, transferred, sold, conveyed, leased occupied, used, insured, and encumbered subject to all terms, covenants, conditions, restrictions, liens and easements of this Declaration and of the Documents, which run with the real property and bind all parties having or acquiring any right, title, or interest in the real property, including their heirs, successors and assigns, and shall inure to the benefit of each Owner of the real Property.

ARTICLE 1
DEFINITIONS

DEFINITIONS. The following words and phrases, whether or not capitalized, have the specified meaning when used in the Documents, unless a different meaning is apparent from the context in which the word or phrase is being used.

- 1.1 "ACC" means the Architectural Control Committee of the Association.

1.2 "Area of Common Responsibility" means the Common Areas and portions of Lots and Townhomes that are maintained by the Association, as described in section 8.2 below.

1.3 "Assessment" means that charge levied against a Lot or Owner by the Association, pursuant to the Documents or state law.

1.4 "Assessment Lien" shall have the meaning described in Section 6.10 hereof.

1.5 "Association" means the Pecan Place Townhomes Homeowners' Association, Inc., initially organized as a Texas nonprofit corporation, and serving as the "property owners' association" as defined in Section 202.001(2) of the Texas Property Code.

1.6 "Board" means the board of directors of the Association.

1.7 "City" means the City of Fort Worth, Tarrant County, Texas, in which the Property is located.

1.8 "Common Areas" means all land in the Property other than the numbered Lots intended for Townhomes, and includes Common Area Lots. Notwithstanding the foregoing, any streets or off-street parking areas located within the boundaries of any numbered Lots shall be Common Areas for purposes of this definition.

1.9 "Declarant" means Uptown Fort Worth Homes, Ltd. a Texas limited liability company, which is developing the Property, or the successors and assigns of Uptown Fort Worth Homes, Ltd. which acquire any portion of the Property for the purpose of development and which are designated a "Successor Declarant" by Uptown Fort Worth Homes, Ltd., or by any such successor and assign, in a recorded document.

1.10 "Declarant Control Period" means that period of time, beginning on the date this Declaration is recorded, during which Declarant shall control the operation of the Association. The Declarant Control Period shall terminate on the date that Declarant holds fifty percent (50%) or less of the fee simple titles to the Lots.

1.11 "Declaration" means this document, as it may be amended from time to time.

1.12 "Development Period" means that period of time, beginning on the date this Declaration is recorded, during which Declarant reserves certain rights for expansion of the Property, and the developing, constructing, marketing and build-up of Lots, with such Development Period terminating on the completion of Townhome and Common Area construction.

1.13 "Documents" means, singly or collectively as the case may be, this Declaration, the Plat, the bylaws, the Association's articles of incorporation, any rules promulgated by the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule or certification accompanying a Document is a part of that Document.

1.14 "Lot" or "Lots" means a portion of the Property intended for independent Ownership, on which there is or will be constructed a Townhome, as shown on the Plat. Where the context indicates or requires, "Lot" or "Lots", as the case may be, includes all improvements thereon.

1.15 "Majority" means more than half.

1.16 "Member" or "Members" means a member or members, as the case may be, of the Association; each member being an Owner of a Lot, unless the context indicates that member means a member of the Board or a member of a committee of the Association.

1.17 "Owner" means the holder of recorded fee simple title to a Lot. Declarant is the initial Owner of all Lots. Contract sellers and mortgagees who acquire title to a Lot through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure become Owners after acquiring title to the subject Lot. Persons or entities having an Ownership interest merely as security for the performance of an obligation are not Owners. Every Owner is a member of the Association as long as such person is an Owner. "Owners" means more than one Owner. "Co-Owners" means joint holders of recorded fee simple title to a Lot.

1.18 "Party Walls" means a fence or Townhouse wall described in Section 9.6 hereof.

1.19 "Person" means an individual, partnership, association, corporation, limited liability company or other entity.

1.20 "Plat" means all Plats, singly or collectively, recorded or to be recorded in the Real Property Records of Tarrant County, Texas, and pertaining to Pecan Place Townhomes, including all dedications, limitations, restrictions, easements and reservations shown on the Plat, as it may be amended from time to time. The final plat, titled "Pecan Place Townhomes," was recorded on _____.

1.21 "Property" means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Pecan Place Townhomes. The Property is located on land described in Appendix A to this Declaration, and includes every Lot thereon.

1.22 "Resident" means an occupant of a Townhome, regardless of whether the person owns the Lot.

1.23 "Rules" means rules and regulations adopted from time to time by the Board in accordance with the Documents.

1.24 "Townhome" means the attached single-family dwelling constructed on a Lot. Where the context indicates or requires, "Townhome" includes its exterior appurtenances, such as fences, porches, and sidewalks. "Townhomes" means more than one Townhome.

1.25 "Townhome Commons" has the same meaning described in Section 8.3 hereof.

1.26 "Underwriting Lender" means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (FHA), Federal National Mortgage Association (Fannie Mae) Veterans Administration (VA), singly or collectively. The use of this term and the institutions may not be constructed as a limitation on an Owner's financing options nor as a representation that the Property is approved by any institution.

ARTICLE 2
PROPERTY SUBJECT TO DOCUMENTS

2.1 PROPERTY. The real property described in Appendix A is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms,

covenants, conditions, restrictions, liens, and easements of this Declaration and of the other Documents, which run with the real Property and bind all parties having or acquiring any right, title, or interest in the Property, including their heirs, successors, and assigns, and shall inure to the benefit of each Owner of the Property.

2.2 ADDITIONAL PROPERTY. Additional real property may be annexed to the Property and subjected to the Declaration and the jurisdiction of the Association on approval of Owners representing at least two-thirds of the Lots in the Property, or, during the Development Period, by Declarant. Annexation of additional property is accomplished by recording a declaration of annexation, including an amendment of Appendix A, in the county's real property records.

ARTICLE 3
ASSOCIATION AND MEMBERSHIP RIGHTS

3.1 THE ASSOCIATION. The duties and powers of the Association are those set forth in the documents, together with the general and implied powers of a property owners' association and a nonprofit corporation under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its Members, subject only to the limitations on the exercise of such powers as stated in the Documents. The Association comes into existence on the issuance of its corporate charter and will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

**EVERY OWNER OF A PECAON PLACE TOWNHOMES LOT
AUTOMATICALLY JOINS A MANDATORY MEMBERSHIP
ASSOCIATION**

3.2 GOVERNANCE. The Association will be governed by a board of directors initially appointed by Declarant that will serve until the expiration of the Declarant Control Period. Upon the expiration of the Declarant Control Period, the board of directors will be elected by and from the Members. Unless the Association's bylaws or articles of incorporation provided otherwise, the Board will consist of

at least 3 persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will serve in accordance with the bylaws. Unless the Documents provide otherwise, any action requiring approval of the Members may be approved in writing by Owners of at least a majority of all Lots, or at a meeting by Owners of at least a majority of the Lots that are represented at the meeting.

3.3 MEMBERSHIP. Each Owner is a Member of the Association, Ownership of a Lot being the sole qualification for Membership. Membership is appurtenant to and may not be separated from Ownership of the Lot: provided, however, there shall be only one vote appurtenant to each Lot. The Board may require satisfactory evidence of transfer of Ownership before a purported Owner is entitled to vote at meetings of the Association. If a Lot is owned by more than one person or entity, each Co-Owner is a Member of the Association and may exercise the Membership rights appurtenant to the Lot. A Member who sells his Lot under a contract for deed may delegate his Membership rights to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all assessments attributed to his Lot until fee title to the Lot is transferred.

3.4 VOTING. One vote is appurtenant to each Lot. The Lot number of votes equals the total number of Lots in the Property. Each vote is uniform and equal to the vote appurtenant to every other Lot. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's bylaws.

3.5 VOTING BY CO-OWNERS. The one vote appurtenant to a Lot is not divisible. If only one of the multiple Co-Owners of a Lot is present at a meeting of the Association, that person may cast the vote allocated to the Lot. If more than one of the Co-Owners is present, the Lot's one vote may be cast with the Co-Owners unanimous agreement. [Co-Owners are in unanimous agreement if one of the Co-Owners casts the vote and no other Co-Owner makes prompt protest to the person presiding over the meeting.] Any Co-Owner of a Lot may vote by ballot or proxy, and may register protest to the casting of a vote by ballot or proxy by the other Co-Owners. If the person presiding over the meeting or balloting receives evidence that the Co-Owners disagree on how the one appurtenant vote will be cast, the vote will not be counted.

3.6 BOOKS & RECORDS. The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to Section B, Article 2.23 of the Texas Non-Profit Corporation Act. (Article 1396-2.23. B, Vernon's Texas Civil Statutes)

3.7 INDEMNIFICATION. The Association shall indemnify every officer, director, and committee member (for purposes of this Section, "Leader") against expense, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which a present or former Leader may be entitled. As a common expense, the Association may maintain adequate general liability and directors and officer's liability to fund this obligation, if it is reasonably available.

3.8 OBLIGATIONS OF OWNERS. Without limiting the obligations of Owners under the Documents, each Owner has the following obligations:

3.8.1 INFORMATION. Within 30 days after acquiring an interest in a Lot, or within 30 days after the Owner has notice of a change in any information required by this Subsection, and on request by Association from time to time, an Owner will provide the Association with the following information: (1) a copy of the recorded deed by which Owner has title to the Lot; (2) the Owner's address, phone number, and driver's license number, if any; (3) any mortgagee's name, address, and loan number; (4) the name and phone number of any Resident other than the Owner; (5) the name, address, and phone number of the Owner's managing agent, if any.

3.8.2 PAY ASSESSMENTS. Each Owner, excluding Declarant, will pay assessments properly levied by the Association against the Owner or his Lot, and will pay regular assessments without demand by the Association.

3.8.3 COMPLY. Each Owner will comply with the Documents as amended from time to time.

3.8.4 REIMBURSE. Each Owner will pay for damage to the Property caused by the negligence or willful misconduct of the Owner, a Resident of the Owner's Lot, or the Owner or Resident's family, guest, employees, contractors, agents, or invitees.

3.8.5 LIABILITY. Each Owner is liable to the Association for violations of the Documents by the Owner, a Resident of the Owner's Lot, or the Owner or Resident's family, guests, employees, agents, or invites, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filled.

3.9 TRANSFER FEE. To help subsidize the costs of maintaining ownership records for purposes of assessment and voting, the Board may levy, as an individual assessment, a charge for the transfer of a significant estate or fee simple title of a Lot. A transfer fee is not refundable and may not be regarded as a prepayment of or credit against regular or special assessments. Transfer fees apply to every transfer of title except the following: (1) foreclosure of a deed of trust lien, tax lien, or the Association's assessments lien; (2) transfer to, from, or by the Association; (3) voluntary transfer by an Owner to one or more Co-Owners, or to the Owner's spouse, child, or parent. (4) transfer to, from or by the Declarant. This Section does not obligate the Board to levy transfer fees. The levy of a transfer fee does not prevent the Association from charging for preparation and issuance of a resale certificate.

ARTICLE 4 **USE RESTRICTIONS**

4.1 ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through the Board, is granted the right to adopt, amend, repeal, and enforce reasonable rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. In addition to the restriction contained in this Article 4, each Lot is owned and occupied subject to the right of the Board to establish rules, and penalties for infractions thereof, governing:

- a. Use of Common Areas

- b. Use and appearance of the Area of Common Responsibility.
- c. Hazardous, illegal, or annoying materials or activities on the Property.
- d. The use of Property-wide services provided through the Association.
- e. The consumption of utilities billed to the Association.
- f. The use, maintenance, and appearance of portions of Townhomes and Lots that are visible from the Streets, Common Areas, or other Townhomes, such as roofs, windows, doors, garages, patios, porches, and unfenced yards.
- g. Landscaping and maintenance of all unfenced yards.
- h. The occupancy and leasing of Townhomes.
- i. The types, sizes, numbers, locations, and behaviors of animals at the Property.
- j. The types, sizes, numbers, conditions, uses, appearances, and locations of motorized and recreational vehicles on the Property.
- k. Disposition of trash and control of vermin, termites, and pests.
- l. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for Residents.

4.2 ANIMAL RESTRICTIONS. No animal, bird, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose. Customary domesticated household pets may be kept, subject to the Rules which may regulate the type, size, number, and disposition of animals, and which may authorize removal of an animal that violates the Rules. A household pet means a house dog, a house cat, a small caged bird, or aquarium

fish. In the event the Rules fail to establish animal occupancy quotas, no more than 2 dogs or cats, or 1 dog and 1 cat, may be maintained in each Townhome. Additionally, no animal or breed of animal with an aggressive disposition or nature or commonly known as having an aggressive disposition or nature may be maintained in any Townhome. An Owner or Resident must exercise reasonable care to avoid permitting any animal from making any loud, disturbing, or objectionable noises that are likely to disturb or annoy Residents of neighboring Townhomes. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the Board.

4.3 ANNOYANCE. No Lot common area may be used in any way that: (1) may reasonably be considered annoying to neighbors; (2) may be calculated to reduce the desirability of the Property as a residential neighborhood; (3) may endanger the health or safety of Residents; (4) may result in the cancellation of insurance on the Property; or (5) will violate any law. The Board has the sole authority to determine what constitutes an annoyance.

4.4 APPEARANCE. Both the Lot and Townhome must be maintained in a manner so as not to be unsightly when viewed from the Streets or neighbors' Lots. The ACC is the arbitrator of acceptable appearance standards.

4.5 BARBECUES. No exterior fires are permitted on the Property. Barbeque grills which are prohibited by the City are also prohibited by this Declaration. To the extent the City authorizes barbeque grills, the Association may regulate their location and use.

4.6 DRAINAGE. No person may interfere with the established drainage pattern over any part of the Property unless the Board has approved an adequate alternative provision for proper drainage.

4.7 DRIVEWAYS. The driveway portion of a Lot may not be used for any other purpose that interferes with its ongoing use as a route of vehicular access to the garage. Without the Board's prior approval, a driveway may not be used for storage purposes or for restoration of vehicles.

4.8 FENCES. Front yards are to contain a four (4) foot wrought iron fence with brick columns. Without the prior written consent of the ACC, no Lot or portion of a Lot may

be otherwise fenced. The Owners of each fenced Lot are responsible for the maintenance and replacement of the fences, other than any perimeter fence of the Property.

4.9 GARAGES. Without the Board's prior written approval, the original garage area of a Lot may not be enclosed or used for any purpose (including storage) that prohibits the parking of two operable automobiles therein. The automatic garage door opener is to be maintained by its Owner. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving or while a owner is physically working in the garage.

4.10 LANDSCAPING. No person may perform landscaping, planting, or gardening in the Area of Common Responsibility without the Board's prior written authorization. Once written authorization is given, landscaping, planting and/or gardening will be the responsibility of the owner.

4.11 LEASING OF HOMES. An Owner may lease his Townhome. Whether or not it is so stated in a lease, every lease is subject to the Documents. An Owner is responsible for providing his tenant with copies of the Documents and notifying him of changes thereto. Failure by the tenant or his invitees to comply with the Document, federal or state law, or local ordinance is deemed to be a default under the lease. When the Association notifies an Owner of his tenant's violation, the Owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or state of the default, including eviction of the tenant. The Owner of a leased Townhome is a liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Documents against the Owner's tenants.

4.12 NOISE & ODOR. An Owner or Resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy Residents of neighboring

Townhomes. The Rules may prohibit the use of noise-producing security devices, and wind chimes.

4.13 OCCUPANCY OF TOWNHOMES. Other than the completed Townhome, no thing or structure on a Lot (including the garage) may be occupied as a residence at any time by any person. The Board may adopt rules regarding the occupancy of Townhomes. If the Rules fail to establish occupancy standards, no more than 2 persons per bedroom may occupy a Townhome, subject to the exception for familial status. The Association's occupancy standard for Residents who qualify for familial status protection under the fair housing laws may not be more restrictive than the minimum (*i.e., the fewest people per unit*) permitted by the U. S. Department of Housing and Urban Development. A person may not occupy a Townhome if the person constitutes a direct threat or safety of other persons, or if the person's occupancy would result in substantial physical damage to the Property of others.

4.14 RESIDENTIAL USE. The use of a Lot is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a Resident from using a Townhome for personal business or professional pursuits provided that: (1) the uses are incidental to the use of the Townhome as a residence; (2) the uses conform to all applicable governmental ordinances; (3) there is no external evidence of the uses; (4) the uses do not entail visits to the Townhome by employees or the public in quantities that materially increase the number of vehicles parked on the Property; and (5) the uses do not interfere with Residents' use and enjoyment of neighboring Townhomes.

4.15 SIGNS. No signs advertising the Townhomes for sale or lease, other advertising signs, or unsightly objects may be erected, placed, or permitted to remain on the Property or to be visible from windows in the Townhome without the Board's prior written approval. The Board's approval may specify the location, nature, appearance, dimensions, number, and time period of any advertising sign. The Association may effect the removal of any sign that violates this Section 4.15 without liability for trespass or any other liability connected with the removal. Notwithstanding the foregoing, an Owner may erect, per Lot, one professionally-made standard sign of not more than 5 square feet advertising the Townhome for sale.

4.16 STRUCTURAL INTEGRITY. No person may directly or indirectly impair the structural soundness or integrity of a building or another Townhome, nor do any work that will impair an easement or hereditament.

4.17 TELEVISION. Each Owner or Resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Without the prior written consent of the ACC, no person may install the following equipment on a Lot if it would be visible from the street: an antenna, microwave or satellite dish, receiving or transmitting tower; provided, however, that (1) reception-only TV antennas, (2) direct broadcast satellites (DBS) that are one meter or less in diameter, and (3) multipoint distribution service (MDS) antennas that are one meter or less in diameter may be installed, subject to the right of the Association to adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the antennas, masts, and dishes to the extent permitted by public law.

4.18 TEMPORARY STRUCTURES. Improvements or structures of a temporary and mobile nature, such as sheds, doghouses, greenhouses, and playhouses may not be placed on a Lot. However, the ACC may authorize an Owner or an Owner's contractor to maintain a temporary structure (such as a portable toilet or construction trailer) on the Lot during construction, repairs or maintenance of Townhomes.

4.19 VEHICLES. All vehicles on the Property, whether owned or operated by the Owners, Residents or their families or guests, are subject to this Section 6 and rules as may be adopted by the Board, No truck with tonnage over 3-quarters of a ton, vehicle with advertising signage, mobile home, motor home, camper, bus, trailer, boat, aircraft, inoperable vehicle, or any other similar vehicle equipment, mobile or otherwise, which the Board deems to be a nuisance, unsightly, or inappropriate may be kept, parked, or stored anywhere on the Property without Board approval. The foregoing restriction does not apply to vehicles and equipment temporarily on the Property in connection with the construction or maintenance of a Townhome. Vehicles that transport inflammatory or explosive cargo are prohibited at all times. The Association may effect the removal of any vehicle in violation of this Section or the

Rules without liability to the Owner or operator of the vehicle.

ARTICLE 5
ARCHITECTURAL COVENANTS AND CONTROL

5.1 PURPOSE. Because the Lots are part of a single, unified community, the Association has the right to regulate the design, use, and appearance of the Lots, Townhomes, and Common Areas in order to preserve and enhance the Property's value and architectural harmony. The purpose of this Article 5 is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed.

5.2 ARCHITECTURAL CONTROL COMMITTEE. The Architectural Control Committee (the "ACC") consists of 3 persons appointed by Declarant during the Declarant Control Period. After the Declarant Control Period, the ACC shall consist of 3 persons appointed by the Board, pursuant to the bylaws, or at the Board's option, the Board may act as the ACC. If the Board acts as the ACC, all references in the Documents to the ACC are construed to mean the Board. Members of the ACC need not be Owners or Residents.

5.3 PROHIBITION OF CONSTRUCTION, ALTERATION & IMPROVEMENT. Without the ACC's prior approval, a person may not construct a Townhome or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property, if it will be visible from the street, another Lot, or the Common Areas. The ACC has the right but not the duty to evaluate every aspect of construction, landscaping, and Property use that may adversely affect the general value or appearance of the Property.

**BEFORE MAKING ANY IMPROVEMENT OR ALTERATION
TO A LOT OR TOWNHOME, A BUILDER OR OWNER
MUST OBTAIN THE ACC'S PRIOR WRITTEN APPROVAL.**

5.4 ACC APPROVAL. To request ACC approval, an Owner must make written application and submit two identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. The application must clearly identify any

requirement of this Declaration for which a variance is sought. The ACC will return one set of plans and specifications to the applicant marked with the ACC's response, such as "Approved" or "Denied." The ACC will retain the other set of plans and specifications, together with the application, for the Association's file. Verbal approval from a director, officer, member of the ACC, or the Association's manager does not constitute ACC approval, which must be in writing. If the application is for work that requires a building permit from the City, the ACC's approval is conditioned on the City's issuance of the appropriate permit. The ACC's approval of plans and specifications does not mean that they comply with the City's requirements. ACC approval may not be "deemed" from its actions or failure to act.

ARTICLE 6
COVENANT FOR ASSESSMENTS

6.1 PURPOSE OF ASSESSMENTS. The Association will use assessments for the general purpose of preserving, repairing, maintaining and enhancing the Property, and for the common benefit of Owners and Residents, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purpose for which the Property was developed. If made in good faith, the Board's decision with respect to use of assessments is final.

6.2 PERSONAL OBLIGATION. An Owner is obligated to pay assessments levied by the Board against the Owner of his Lot. Provided however, that Declarant shall not be required to pay any assessment, even if Declarant qualifies as an Owner. Assessment payments shall be made to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the Common Areas or by abandonment of his Lot. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

6.3 CONTROL FOR ASSESSMENT INCREASE. This Section 6.3 of the Declaration may not be amended without the approval of Owners of at least 67 percent of the Lots. In addition to other rights granted to Owners by this Declaration, Owners have the following powers and control over the Association's budget:

6.3.1 VETO INCREASED DUES. At least 30 days prior to the effective date of an increase in regular assessments, the Board will notify an Owner of each Lot of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless Owners of at least a majority of the Lots disapprove the increase by petition or at a meeting of the Association. In such event, the last-approved budget will continue in effect until a revised budget is approved.

6.3.2 VETO SPECIAL ASSESSMENT. At least 30 days prior to the effective date of a special assessment, the Board will notify an Owner of each Lot of the amount of, the budgetary basis for, and the effective date of the special assessment. The special assessment will automatically become effective unless Owners of at least a majority of the Lots disapprove the special assessment by petition or at a meeting of the Association.

6.4 TYPES OF ASSESSMENTS. There are 3 types of assessments: Regular, Special, and Individual.

6.4.1 REGULAR ASSESSMENTS. Regular assessments are based on the annual budget. Each Lot is liable for its equal share of the annual budget. If the Board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, Owners will continue to pay the regular assessment as last determined. If during the course of a year the Board determines that regular assessments are insufficient to cover the estimated common expenses for the remainder of the year, the Board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Regular assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, repair, and replacement, as necessary, of the Area of Common Responsibility.

- b. Utilities billed to the Association.
- c. Services billed to the Association and serving all Lots.
- d. Taxes on Property owned by the Association and the Association's income taxes.
- e. Management, legal, accounting, auditing, and professional fees for services to the Association.
- f. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- g. Premiums and deductions on insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance.
- h. Contributions to the reserve funds.
- i. Any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the Board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Documents.

6.4.2 SPECIAL ASSESSMENTS. In addition to regular assessments, and subject to the Owners' control for assessment increases, the Board may levy one or more special assessments against all Lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the Owners, except that special assessments for the following purposes must be approved by Owners of least a majority of the Lots:

- j. Acquisition of real property, other than for the purpose of a Lot foreclosing the Association's lien against the Lot.

- k. Construction of additional improvements within the Property, but not replacement of original improvements.
- l. Any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacements.

6.4.3 INDIVIDUAL ASSESSMENTS. In addition to regular and special assessments, the Board may levy an individual assessment against a Lot and its Owner. Individual assessments may include, but are not limited to: interest, late charges, and collection cost on delinquent assessments; reimbursement for cost incurred in bringing an Owner or his Lot into compliance with the Documents; fines for violations of the Documents; insurance deductibles; reimbursement for damage or waste caused by willful or negligent acts; transfer and resale certificate fees; common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to the benefit received.

6.5 BASIS & RATE OF ASSESSMENTS. The share of liability for common expenses allocated to each Lot shall be uniform, regardless of a Lot's or Townhome's location, value or size, subject to lower rates of assessment for vacant Lots. The rates of assessment are as follows:

6.5.1 IMPROVED LOT. A Lot that has been improved with a Townhome for which the City has issued the initial certificate of occupancy will at all times thereafter be assessed at the full rate, as same may be amended from time to time. As of the date of the recording of this Declaration, the full rate of regular assessment for an improved Lot is thirty-five dollars (\$35.00) per month or four hundred and twenty dollars (\$420.00) annually.

6.5.2 VACANT LOT. A Lot that is vacant or on which a Townhome is under construction is assessed at half of the full rate. A vacant Lot becomes subject to assessment at the full rate on the first day of the month following the month in which the City issues a certificate of occupancy. The Board may revoke the reduced-rate status of a vacant Lot if it becomes necessary or desirable for the Association to

spend money on or for the Lot, or if the Board determines that a completed Townhome is eligible for a certificate of occupancy. As of the date of the recording of this Declaration, the rate of regular assessment for a vacant Lot is seventeen dollars and fifty cents (\$17.50) per month or two hundred and ten dollars (\$210.00) annually.

6.5.3 DECLARANT AND BUILDER LOTS. Notwithstanding the two preceding subsections, a Lot that is owned by Declarant is exempt from the assessments identified in this Declaration.

6.6 ANNUAL BUDGET. The Board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make its budget or its summary available to an Owner of each Lot, although failure to receive a budget or summary does not affect an Owner's liability for assessments. The Board will provide copies of the detailed budget to Owners who make written request and pay a reasonable copy charge.

6.7 DUE DATE. The Board may levy regular assessments on any periodic basis annually, semi-annually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

6.8 RESERVE FUNDS. The Association will establish, maintain, and accumulate reserves and use its best efforts to fund reserves out of Regular Assessments.

6.8.1 OPERATIONS RESERVES. The Association will maintain operations reserves at a level sufficient to cover the cost of operational or maintenance emergencies, including the full amount of deductibles on insurance policies maintained by the Association.

6.8.2 REPLACEMENT & REPAIR RESERVES. The Association will maintain replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the Area of Common Responsibility.

6.9 ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of Owners of at least a majority of Lots and the ability of the Association to repay the borrowed funds from assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its rights to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the Owners hereunder.

6.10 ASSESSMENT LIEN. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. Each assessment lien is a charge (the "Assessment Lien") on the Lot and is secured by a continuing lien on the Lot. Each Owner, and each prospective Owner, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his Lot. Notwithstanding the foregoing; Declarant shall not pay any assessment nor shall any Assessment Lien shall be levied on any Lot owned by Declarant.

6.10.1 SUPERIORITY OF ASSESSMENT LIEN. The Assessment Lien is and shall be superior to all other liens and encumbrances on a Lot, except only for (1) real property taxes and assessments levied by governmental and taxing authorities, (2) a recorded deed of trust lien securing a loan for construction of the original Townhome, and (3) a first senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due.

6.10.2 EFFECT OF FORECLOSURE. Foreclosure of a superior lien extinguishes the Association's claim against the Lot for unpaid assessments that become due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at a foreclosure sale is liable for assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

NOTICE

THE HOA CAN FORECLOSE

If you fail to pay assessments to the Association, you may lose title to your Townhome if the association forecloses its assessment lien against your Lot.

6.10.3 PERFECTION OF LIEN. The Association's Assessment Lien is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of a lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the county's real property records. If the debt is cured after a notice has been recorded, the Association will record a release of that notice at the expense of the curing Owner.

6.10.4 POWER OF SALE. By accepting an interest in or title of a Lot, each Owner grants to the Association a private power of nonjudicial sale in connection with the Association's Assessment Lien. The Board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale on behalf of the Association. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a Board meeting.

6.10.5 FORECLOSURE OF LIEN. The Assessment Lien may be enforced by judicial or nonjudicial foreclosure as provided in Section 7.1.8 of this Declaration. Additionally nonjudicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth on Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the Owner is required to pay the Association's cost and expenses for the proceedings, including reasonable attorney's fees. The Association has the power to bid on the Lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same.

ARTICLE 7

EFFECT OF NONPAYMENT OF ASSESSMENTS AND VIOLATION OF THE DOCUMENTS

7.1 COLLECTING DELINQUENT ASSESSMENTS. Owners who honor their obligations to the Association should not be burdened

by Owners who default. The Board is responsible for taking action to collect delinquent assessments. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

7.1.1 DELINQUENCY. An assessment is delinquent if the Association does not receive payment in full by the assessment's due date.

7.1.2 INTEREST. Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the lesser of 18 percent or the maximum permitted by law. If the Board fails to establish a rate, the rate is 10 percent per annum. Interest is an individual assessment.

7.1.3 LATE FEES. Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time. Late fees are an individual assessment.

7.1.4 COST OF COLLECTION. The Owner of a Lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorney's fees and processing fees (subject to Section 209.008 of the Texas Property Code) charged by the manager. Collection costs are an individual assessment.

7.1.5 ACCELERATION. If an Owner defaults in paying an assessment that is payable in installments, the Board may accelerate the remaining installments after 10 days' written notice to the defaulting Owner. The entire unpaid balance of the assessment becomes due on the date stated on the notice.

7.1.6 SUSPENSION OF USE AND VOTE. If an Owner's account has been delinquent for at least 30 days, the Board may suspend the right of Owners and Residents to use Common Areas and common services during the period of delinquency. The Board may not suspend the Owner or Resident's right of access to his Lot. The Board may also suspend the right to vote appurtenant to the Lot. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay assessments.

7.1.7 MONEY JUDGMENT. The Association may file a suit seeking a money judgment against an Owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.

7.1.8 FORECLOSURE OF ASSESSMENT LIEN. As provided by this Declaration, the Association may foreclose its lien against the Lot by judicial or nonjudicial means subject to Section 209.009 of the Texas Property Code and the notice provisions set forth in the Declaration in Section 7.3.

7.1.9 APPLICATION OF PAYMENTS. The Board may adopt and amend policies regarding the application of payments. The Board may refuse to accept partial payment, i.e., less than the full amount due and payable. The Board may also refuse to accept payments to which the payor attaches conditions or directions contrary to the Board policy for applying payments. The Board's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the Lot's account.

7.1.10 NOTICE TO MORTGAGEE. The Association may notify and communicate with any holder of a lien against a Lot regarding the Owner's default in payment of assessments, without any liability of any kind to the Owner of the Lot which the assessment are delinquent.

7.2 ENFORCING THE DOCUMENTS. The remedies provided in this Section 7.2 for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by the law, the Association has the following rights to enforce the Documents:

7.2.1 NUISANCE. The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by law against nuisance, either public or private, is applicable against the violation.

7.2.2 FINE. The Association may levy reasonable charges, as an individual assessment, against an Owner and his Lot if the Owner or Resident, or the Owner or Resident's family, guest, employees, agents, or contractors violate a provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the Owner's obligation under the Documents.

7.2.3 SUSPENSION. The Association may suspend the right of any Owner and Resident to use Common Areas for any period during which the Owner or Resident, or the Owner or Resident's family, guest, employees, agents, or contractors violate the Documents. A suspension does not constitute a waiver or discharge of the Owner's obligation under the Documents.

7.2.4 SELF-HELP. The Association has the right to enter any part of the Property, including Lots, to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its cost of abatement against the Lot and Owner as an individual assessment. Unless an emergency situation exists in the good faith opinion of the Board, the Board must comply with Section 7.3 regarding notice of its intent to exercise self-help.

7.2.5 NO WAIVER. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by the Owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter.

7.3 NOTICE AND HEARING. Before levying a fine, suspending an Owner's right to use Common Areas, filing suit against an owner, foreclosing a lien, levying an individual assessment for Property damage or taking any other action to enforce the Documents, except as stated in Section 7.2.4, the Association must give written notice to the Owner by certified mail, return receipt requested. Such written notice must contain: (1) a description of the violation or Property damage; (2) the amount of the proposed fine assessment, or damage charge; (3) a statement that not later than the 30th day after the date of notice, the Owner may request a hearing before the Board to contest the fine or charges; and (4) a stated date by which the Owner may cure the violation to avoid the fine - unless the Owner was given notice and reasonable opportunity to cure a similar violation within the proceeding 12 months. The Association may also give a copy of the notice to the Resident. The Association shall not be required to give such notice when filing a lawsuit against an Owner to collect a regular or special assessment. Pending the hearing, the Association

may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine or damage charge. If the Owner requests a hearing, such hearing shall comply with all requirements of Section 209.007 of the Texas Property Code. The Owner may attend the hearing in person, or may be represented by another person or may present written communication. The Board may adopt additional procedures and requirements for notices and hearing.

7.4 LIMITS OF INTEREST. The Association, and its officers, directors, managers and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Declaration, the bylaws, the Association's collection, policies and resolutions, or any other document or agreement executed or made in connection with any of these, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects or applies as interest any sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special, individual or regular assessments, or reimbursed to the Owner if those assessments are paid in full.

ARTICLE 8

MAINTENANCE AND REPAIR OBLIGATION

8.1 INTRODUCTION. Generally, the Association maintains the Common Areas and off-street parking areas, and the Owner maintains his Lot and Townhome. This Declaration contains a mechanism by which the Owners may delegate some of their individual responsibilities to the Association. For example, during one 20-year span the Owners may want the Association to maintain the roofs of all the Townhomes, which otherwise is the responsibility of each Lot Owner. During the next 20 years, the Owners may prefer to handle roof maintenance on an individual basis. The Owners have that collective option under this Declaration's concept of "Townhome Commons," as described below. The shift of maintenance from Owner's to the Association creates a higher annual budget for the Association, and higher regular Assessments for the Owners. A designation of Townhome Commons by the Declarant is intended to shift many of the Owners' responsibilities to

the Association in the response to consumers' preference for a "low maintenance" lifestyle.

8.2 AREA OF COMMON RESPONSIBILITY. The Area of Common Responsibility consists of the following components on or adjacent to the Property, even if located on a Lot or a public right of way:

- a. The Common Areas and all improvements, signage, and equipment thereon.
- b. Any fences and walls along the perimeter of the Property.
- c. Any off-street parking spaces or those spaces shown on the Plat as "parking easements."
- d. Any grouped curbside mailboxes.
- e. Any right, title, or interest in real property that is held by the Association for the use and benefit of Owners or Residents of the Property, including any Lot owned by the Association.
- f. Any personal property owned by the Association.
- g. The Townhome Commons, being those components of Lots or Townhomes designated - from time to time - by the Association for common maintenance, pursuant to Section 8.3 of this Article titled "Townhome Commons."
- h. Any modification, replacement or addition to any of the above-described areas and improvements.

8.3 TOWNHOME COMMONS. The Association acting through its Members only, has the right but not the duty to designate, from time to time, portions of Lots or Townhomes as Townhome Commons for maintenance by the Association as a common expense. The cost of maintaining Townhome Commons as Areas of Common Responsibility is added to the annual budget and assessed uniformly against all Lots as a regular assessment, unless Owners of at least a majority of the Lots decide to assess the cost as individual assessments.

8.3.1 CHANGE IN DESIGNATION. The Association may, from time to time change or eliminate the designation of the components or Lots as Townhome Commons. Because the designation is subject to change, the Association will maintain at all times a dated list of the Townhome Commons for distribution to the Owners and prospective purchasers. Additions, deletions or changes in designation must be (1) approved by the Owners of at least a majority of the Lots, (2) published and distributed to an Owner of each Lot, and (3) reflected in the Association's annual budget and reserve funds.

BEFORE BUYING A TOWNHOME, a prospective purchaser should ask the Association for the most recent designation of Townhome Commons.

8.3.2 INITIAL DESIGNATION. There is no initial designation of Townhome Commons made as of the date of this Declaration. Future designations of Townhome Commons need not be publicly recorded, but must be available from the Association to Owners and prospective purchasers.

8.3.3 DISPUTES. If a dispute arises regarding the allocation of maintenance or repair responsibilities by this Declaration, or by further designation of Townhome Commons, the dispute shall be submitted to the Board for resolution. If the dispute is not resolved by the Board, such dispute shall be submitted to binding arbitration. Townhome and Lot maintenance and repair responsibilities that are allocated to the Association are intended to be interpreted narrowly to limit and confine the scope of Association responsibility. It is the intent of this article that all components and areas not expressly delegated to the Association are the responsibility of the individual Owner.

8.4 TOWNHOME FOUNDATION. Each Owner is solely responsible for the maintenance and repair of the foundation on his Lot. However, if a licensed structural engineer determines that the failure to repair the foundation under one Townhome may adversely affect one or more other Townhomes in the building, then the cost of the foundation repair will be divided by the number of Townhomes in the building, and the Owners of each of these Townhomes will pay an equal share. If an Owner fails or refuses to pay his share of cost of repair of the foundation, the Owner

advancing monies has a right to file a claim of lien for the monies advanced in the county's real property records, and, after notice and approval by a majority of the Board, has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to contribution from another Owner under this section is appurtenant to the land and passes to the Owner's successors in title.

**ASSOCIATION'S MAINTENANCE OF LOT
OR TOWNHOME IS SUBJECT TO CHANGE**

8.5 ASSOCIATION MAINTAINS. The Association maintains, repairs, and replaces as a common expense, the Areas of Common Responsibility, regardless of whether located on Lots or Common Areas. The Association's maintenance obligations will be discharged when and how the Board deems appropriate.

8.6 OWNERS RESPONSIBILITY. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property:

8.6.1 LOT MAINTENANCE. Each Owner, at the Owner's sole expense, must maintain all aspects of his Lot and Townhome, except an area or component designated as an Area of Common Responsibility or Townhome Commons. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each Owner is expected to maintain his Lot and Townhome at a level, to a standard and with an appearance that is commensurate with the neighborhood.

8.6.2 AVOID DAMAGE. An Owner may not do any work or to fail to do any work which, in the reasonable opinion of a majority of the Board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property.

8.6.3 RESPONSIBLE FOR DAMAGE. An Owner is responsible for his own willful or negligent acts and those of his or the Resident's family, guest, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the Common Areas, the Area of Common Responsibility, or the Property of another Owner.

8.7 OWNER'S DEFAULT IN MAINTENANCE. If a majority of the Board determines that an Owner has failed to properly discharge his obligations to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Associations' intent to provide the necessary maintenance at the Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at the Owner's expense, which shall be an individual assessment against the Owner and his Lot. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, and the cost of any such action shall be the Owner's expense.

8.8 DECLARANT MAINTAINS. During the Declarant Control Period, the Declarant shall maintain, repair, and replace as a common expense, the Areas of Common Responsibility. Upon the termination of the Declarant Control Period, the Association shall assume such obligations pursuant to Section 8.5 hereof.

ARTICLE 9

PROPERTY EASEMENTS AND RIGHTS

9.1 GENERAL. In addition to other easements and rights established by the Documents, the Property is subject to the easements and rights contained in the article.

9.2 STREET EASEMENT. As shown on the Plat, every Lot and the Common Areas in the Property is burdened with a Firelane, Utility & Access Easement. On recording this Declaration Declarant hereby grants to the Association a perpetual easement (the "Street Easement") over each Lot and the Common Areas for the maintenance, repair, use, governance, and control of the Streets in the Property.

9.2.1 PURPOSE OF EASEMENT. The purpose of the Street Easement is to provide for the existence, maintenance, repair and control of the Property's Streets, to be maintained by the Association, as an Area of Common Responsibility. In exercising this Street Easement, the Association may do anything reasonably related to the use, maintenance, repair, operation, and governance of the

Streets. To the extent not prohibited by public law, the Association, acting through the Board, is specifically authorized to adopt, amend, repeal, and enforce rules, regulations, and procedures for use of the Streets, including but not limiting to:

- a. Identification of vehicles used by Residents and their families and guests.
- b. Designation of speed limits and parking or no-parking areas.
- c. Removal or prohibition of vehicles that violate applicable rules and regulations.
- d. Imposing fines for violation of applicable rules and regulations.
- e. Adopting and implementing programs for controlling access through the Vienna Drive entrance.

9.2.2 TEMPORARY EASEMENTS. In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much of the surface of each Lot as may be reasonably necessary for the Association to perform its contemplated work on the Street Easement.

9.2.3 ASSIGNMENT. The Association may assign this easement, or any portion thereof, to the City if the City agrees to accept the assignment.

9.3 PARKING EASEMENT. On recording this Declaration, Declarant grants to the Association a perpetual easement (the "Parking Easement") over any Lots containing off-street parking areas (the "Parking Lot"), for the maintenance, repair, use, governance, and control of the off-street parking areas shown on the Plat as Parking Easements.

9.3.1 PURPOSE OF EASEMENT. The purpose of the Parking Easement is to provide for the existence, maintenance, and control of the Property's offstreet parking, to be maintained by the Association as an Area of Common Responsibility. In exercising this Parking Easement, the Association may do anything reasonably related to the use, maintenance, and governance of offstreet parking spaces, including—without limitation—signage, striping, assignments for specific purposes, and limitations of uses.

9.3.2 TEMPORARY EASEMENT. In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much of the surface of the Parking Lot as may be reasonably necessary for the Association to perform its contemplated work on the Parking Easement.

**NOTICE
CERTAIN LOTS IN
PECAN PLACE TOWNHOMES
ARE SUBJECT TO A
PARKING EASEMENT**

9.4 OWNER'S MAINTENANCE EASEMENT. Every Owner is granted an access easement over adjoining Lots and Common Areas for the maintenance or reconstruction of his Townhome and other improvements on his Lot, providing exercise of the easement does not damage or materially interfere with the use of the adjoining Lot or Common Areas (the "Owners Maintenance Easement"). Requests for entry to an adjoining Lot or Common Areas must be made to the Owner of the adjoining Lot, or the Association in the case of Common Areas, in advance for a time reasonably convenient for the adjoining Owner, and such consent may not unreasonably be withheld. If an Owner damages an adjoining Lot or Common Areas in exercising this easement, the Owner is obligated to restore the damage and the Property to its original condition, at his expense, within a reasonable period of time.

9.5 TOWNHOME EASEMENT. Every Owner of a Lot is granted an easement over, under, and through every other Lot that contains the same building in which his Townhome is located, for the limited purpose of installing, maintaining, and replacing wire, cables, conduit, pipes, and meters that serve his Townhome, but only to the extent that use of this easement is reasonable and necessary (the "Townhome Easement"). Reciprocally, the Owner of a Lot that contains wire, cables, conduit, pipes, or meters that serve one or more other Townhomes has a duty to refrain from interfering with or damaging those items. The procedures and liabilities of the preceding Owners Maintenance Easement apply to this Townhome Easement.

9.6 PARTY WALLS & FENCES. A fence or Townhome wall on or near the dividing line between two Lots ("Adjoining Lots") constitutes a "Party Wall" and, to the extent not inconsistent with the provisions of this Section 9.6, is subject to the general rules of law regarding party wall liability for Property damage due to negligence, willful acts, or omissions.

9.6.1 ENCROACHMENTS & EASEMENTS. If the Party Wall is on one Lot or another due to an error in construction, the midpoint of the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section 9.6. Each Adjoining Lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each Adjoining Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

9.6.2 RIGHT TO REPAIR. If the Party Wall is damaged or destroyed for any cause, the Owner of either Adjoining Lot may repair or rebuild the Party Wall to its previous condition, and the Owners of both Adjoining Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall.

9.6.3 MAINTENANCE COSTS. The Owners of the Adjoining Lots share equally the costs of enlargement, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions, and subject to the responsibility for interior walls below. If an Owner is responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the county's real property records, and, after notice and approval by a majority of the Board, has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to seek contribution from another Owner under this Section 9.6.3 is appurtenant to the land and passes to the Owner's successors in title.

9.6.4 ALTERATION. The Owner of an Adjoining Lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, conditions, or appearance of the Party Wall to the Adjoining Lot. The Party Wall will always remain in the same location as when erected.

9.6.5 INTERIOR WALLS. The walls between the Townhomes are designed to be two independent wall systems, each of which must be maintained by the Owner of the Townhome it serves, solely at his expense.

9.7 OWNER'S INGRESS/EGRESS EASEMENT. Every Owner is granted an easement over the Property, as may be reasonably required, for ingress to and egress from his Lot.

9.8 OWNER'S ENCROACHMENT EASEMENT. Every Owner is granted an easement for the existence and continuance of any encroachment by his Lot on any Adjoining Lot or Common Areas now existing or which may come into existence hereafter, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the improvement stands.

9.9 ASSOCIATION'S ACCESS EASEMENT. The Association is granted an easement of access and entry to every Lot and the Common Areas to perform maintenance, to enforce architectural and use restrictions, to respond to emergencies, and to perform any other duties required by the Documents.

9.10 OWNER'S EASEMENT OF ENJOYMENT. Every Owner is granted the right and easement of enjoyment over the Common Areas, Streets, and the Parking Easement and to the use of improvements therein, subject to other rights and easements contained in the Documents. An Owner may delegate this right of enjoyment to the Residents of his Lot.

9.11 UTILITY EASEMENT. The Association may grant permits, licenses, and easements over the Streets and Common Areas for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and

furnish utility service to the Property; provided however, this easement may not be exercised without prior notice to the Board. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security.

9.12 OTHER EASEMENTS. Each Lot shall be subject to an easement for encroachments created by construction, settling and overhang, previously existing or as designed and constructed by Declarant or as a result of any addition or improvement pursuant to this Declaration. A valid easement for such encroachments and for the maintenance of same, so long as they exist, shall and does exist. In the event any improvement is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of adjacent Townhomes due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist so long as the improvements shall stand.

**READERS, PLEASE TAKE PARTICULAR HEED TO THE NEXT
PROVISION TITLED "SECURITY"**

9.13 SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and Resident acknowledges and agrees, for himself and his guests, that Declarant, the Association and their directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and Resident acknowledges and accepts his role and responsibility to provide security for his own person and Property, and assumes all risk for loss or damage to same. Each Owner and Resident further acknowledge that Declarant, the Association, and their directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or Resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. EACH OWNER AND RESIDENT ACKNOWLEDGES AND AGREES THAT DECLARANT, THE ASSOCIATION, AND THEIR DIRECTORS, OFFICERS,

COMMITTEES, AGENTS, AND EMPLOYEES MAY NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.

ARTICLE 10

INSURANCE

10.1 GENERAL PROVISIONS. All insurance affecting the Property is governed by the provisions of this Article. The cost of insurance coverage and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each Owner irrevocably appoints the Association, acting through its Board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association. Additionally:

10.1.1 NOTICE OF CANCELLATION OR MODIFICATION. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give at least 10 days' prior written notice to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or insured.

10.1.2 DEDUCTIBLES. An insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an Owner or Resident or their invitees, the Owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission and such Owner will be obligated for amount of the deductible as an individual assessment.

10.2 CASUALTY OR HAZARD. To the extent it is reasonably available, the Association will obtain blanket all-risk insurance for the Common Areas and insurable improvements in the Area of Common Responsibility, other than the Townhome Commons. If blanket all-risk insurance is not reasonably available, then the Association will obtain an insurance policy providing fire and extended coverage.

10.3 TOWNHOMES. In addition to insuring the Common Areas and Area of Common Responsibility (other than the Townhome Commons) against casualty loss, the Association may, but is not obligated to, maintain casualty insurance on the Townhomes. However, if substantial portions of the Townhomes are designated as Townhome Commons, then the Association is required to maintain casualty insurance on the Townhomes, to the extent it is reasonably available.

10.4 GENERAL LIABILITY. The Association will maintain a commercial general liability insurance policy over the Common Areas and Area of Common Responsibility - expressly excluding the acts or omissions of each Owner, and Resident or invitees within his Lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Areas or Area of Common Responsibility. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners.

10.5 DIRECTORS' & OFFICERS' LIABILITY. To the extent it is reasonably available, the Association will maintain directors' and officers' liability insurance, errors and omission insurance, indemnity bonds, or other insurance that the Board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

10.6 OTHER COVERAGE. The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including but not limited to worker's compensation insurance, fidelity coverage, and any insurance and bonds requested and required by an Underwriting Lender for planned unit developments as long as an Underwriting Lender is a Mortgagee or an Owner.

10.7 OWNER'S RESPONSIBILITY FOR INSURANCE. To the extent Townhome insurance is provided by the Association, each Owner will obtain and maintain fire and extended coverage on all the improvements on his Lot, in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard. Further, each Owner will obtain and maintain general liability insurance on his Lot. Each Owner

will provide the Association with proof of a certificate of insurance on request by the Association from time to time. If an Owner fails to maintain required insurance, or to provide required proof of same, the Board may obtain insurance on behalf of the Owner who will be obligated for the cost as an individual assessment. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. Each Owner and Resident is solely responsible for insuring his personal property in his Townhome and on the Lot, including furnishings, vehicles, and stored items.

ARTICLE 11

TOWNHOME INSURANCE

11.1 GENERAL PROVISIONS. In addition to the prior article, this article applies if the Association insures all the Townhomes as a common expense. The requirements of this article are subject to the availability of insurance coverage, and may be modified by insurance forms and practices that are customary for this type of property. The Association shall provide condominium type coverage as specified in Section 11.3 as a common expense. The Association shall not provide such condominium type coverage until the Declarant has sold all (100%) of the Lots.

11.2 CASUALTY OR HAZARD INSURANCE. The Association, with the majority election of the governing body, may obtain blanket all-risk insurance, if reasonably available, for the Townhomes. If blanket all-risk insurance is not reasonably available, than at a minimum, the Association will obtain an insurance policy providing fire and extended coverage. This insurance must be in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. The Association may insure betterments and improvements installed by current or previous Owners. In insuring Townhomes, the Association may be guided by types of policies customarily available for similar types of properties.

11.3 CONDOMINIUM TYPE COVERAGE. Notwithstanding the general requirements to "insure the Townhomes" the Association shall provide, at a minimum, casualty coverage

to the perimeter shell of the Townhome, requiring the Owner to insure partition walls and floors, fixtures, cabinets, appliances, wall and floor treatments, and all other interior improvements to the structure. When such coverage is in effect, the Association will notify the Owners in writing, at least annually, of the components of the structure that are not insured by the Association and must be insured by the Owner.

11.4 CLAIMS. A claim for any loss covered by the Association's insurance coverage of the Townhomes must be submitted by and adjusted with the Association. The insurance proceeds for that loss must be payable to the Association, and not to any Lot Owner or lienholder.

11.5 OWNER'S RESPONSIBILITY FOR INSURANCE.

11.5.1 INSURANCE BY OWNERS. AT THIS TIME THE ASSOCIATION DOES NOT CARRY INSURANCE FOR THE INDIVIDUAL TOWNHOME UNITS. EACH OWNER IS RESPONSIBLE TO OBTAIN THEIR OWN CASUALTY AND HAZARD AND GENERAL LIABILITY INSURANCE HOMEOWNER'S POLICY. The Association shall carry insurance for the individual townhomes once all (100%) the Lots have been sold by Declarant. Notwithstanding the foregoing, the Board may establish minimum insurance requirements, including types of minimum amounts of coverage, to be individually obtained and maintained by the Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risk to the Association or other Owners. If an Owner fails to maintain required insurance, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an individual assessment.

11.5.2 OWNER'S RESPONSIBILITIES. On request, an Owner will give the Board written notification of any and all structural changes, additions, betterments, or improvements to his Townhome, and any other information the Board may require to maintain adequate levels of insurance coverage. Each Owner will comply with a reasonable request by the Board for periodic inspection of the Townhome for purposes of insurance appraisal. Each Owner, at his expense, is entitled to obtain additional insurance coverage of his real property, improvements, and betterments thereto, or personal property.

11.5.3 ASSOCIATION DOES NOT INSURE. At no time will the Association insure an Owner or Resident's personal property. Each Owner and Resident is solely responsible for insuring

his property in his Townhome and on the Property, including furnishings, and stored items. The Association strongly recommends that each Owner and Resident purchase and maintain insurance on his personal belongings.

11.6 RECONSTRUCTION OR REPAIR AFTER LOSS. Any insured portion of the Townhomes that is damaged will be promptly repaired or replaced by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance, or if Owners of at least 80 percent of the Lots, including each Owner of a Lot that will not be rebuilt or repaired, vote to not rebuild and the failure to rebuild does not increase any insurer's liability for loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement in excess of the insurance proceeds and reserves is a common expense. If some but not all of the damage to the Townhomes are not repaired or replaced, the insurance proceeds attributable to Townhomes that are not rebuilt will be distributed to the Owners of those Townhomes or to their mortgagees, as their interest may appear.

11.6.1 RESTORATION FUNDS. For purposes of this Section, Restoration Funds include insurance proceeds, condemnation awards, deficiency assessments, individual assessments, and other funds received on account of or arising out of injury or damage to the Townhomes. All funds paid to the Association for purposes of repair or restoration will be deposited in a financial institution through signatures of at least 2 directors or that of an agent duly authorized by the Board.

11.6.2 SUFFICIENT PROCEEDS. If Restoration Funds obtained from insurance proceeds or condemnation awards are sufficient to repair or restore the damaged or destroyed Townhomes, the Association, as trustee for the Owners, will promptly apply the funds to the repair or restoration.

11.6.3 INSUFFICIENT PROCEEDS. If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the Board, the Board may levy a deficiency assessment against the Owners to fund the difference. Such deficiency assessment is an individual assessment to be levied against the Owner or Owners who would be responsible for the costs of the restoration.

11.6.4 SURPLUS FUNDS. If the Association has a surplus of Restoration Funds after payment of all cost of repair and

restoration, the surplus will be applied as follows. If deficiency assessments are a source of Restoration Funds, the surplus will be paid to Owners in proportion to their contributions resulting from the deficiency assessment levied against them; provided that no Owner may receive a sum greater than that actually contributed by him, and further provided that any delinquent assessments owed by the Owner to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in the foregoing paragraph will be common funds of the Association to be used as directed by the Board.

11.6.5 COST AND PLANS. Promptly after the loss, the Board will obtain reliable and detailed estimates of the cost of restoring the damaged Townhomes. Costs may include premiums for bonds and fees for the services of professionals, as the Board deems necessary, to assist in estimating and supervising the repair. Townhomes will be repaired and restored substantially in accordance with original construction plans and specifications, unless the Association insures betterments and improvements made by Owners, in which case the Townhomes will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of the Townhomes must be approved by Owners of at least two-thirds of the Lots and by certain mortgagees if so required by the Mortgagee Protection article of this Declaration.

11.7 OWNER'S DUTY TO REPAIR.

11.7.1 UNINSURED LOSS. Within 60 days after the date of damage, the Owner will begin repair or reconstruction of any portion of his Townhome not covered by the Association's blanket insurance policy, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof. Owners may be granted additional time in which to begin repairs or reconstruction by a majority vote of the Board.

11.7.2 INSURED LOSS. If the loss to a Townhome is covered by the Association's insurance policy, the Owner will begin repair or restoration of damage on receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the Association to supervise, approve, or disapprove the repair or restoration during the course thereof.

11.7.3 FAILURE TO REPAIR. If an Owner fails to repair or restore the damage as required by this Section, the Association may effect the necessary repairs and levy an individual assessment against the Owner and Lot for the cost thereof, after giving the Owner reasonable notice of the Association's intent to do so.

11.8 OWNER'S LIABILITY FOR INSURANCE DEDUCTIBLES. If repair or restoration of a Townhome is required as a result of an insurable loss, the Board may levy an individual assessment, in the amount of the insurance deductible, against the Owner or Owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance.

ARTICLE 12

MORTGAGEE PROTECTION

12.1 INTRODUCTION. This Article establishes certain standards for the benefit of Mortgagees, and is written to comply with the Chapter VI of Fannie Mae's Selling Guide in effect at the time of drafting. If a Mortgagee requests from the Association compliance with the guidelines of an Underwriting Lender, the Board, without approval of Owners or Mortgagees, may amend this Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender. This Article is a supplement to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. Some sections of this Article apply to "Mortgagees," as defined in Article 1. Other sections apply to "Eligible Mortgagees," as defined below.

12.2 KNOWN MORTGAGEES. An Owner who mortgages his Lot will notify the Association, giving the complete name and address of his loan number. An Owner will also provide that information on request by the Association from time to time. The Association's obligations to Mortgagees under the Documents extend only to those Mortgagees known to the Association. All actions and approvals required by Mortgagees will be conclusively satisfied by the Mortgagees known to the Association, without regard to other holders of liens on Lots. The association may rely on the information provided by the Owners and Mortgagees.

12.3 ELIGIBLE MORTGAGEES. "Eligible Mortgagees" means a Mortgagee that submits to the Association a written notice

containing its name and address, the loan number, the identifying number and street address of the mortgaged Lot, and the types of actions for which the Eligible Mortgagee requests timely notice. A single notice per Lot will be valid as long as the Eligible Mortgagee holds a mortgage on the Lot. The Board will maintain this information. A representative of an Eligible Mortgagee may attend and address any meeting which an Owner may attend.

12.4 MORTGAGEE RIGHTS.

12.4.1 TERMINATION. An action to terminate the legal status of the Property after substantial destruction must be approved by at least 51 percent of Eligible Mortgagees, in addition to the required consents of Owners. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least 67 percent of Eligible Mortgagees. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within 30 days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

12.4.2 INSPECTION OF BOOKS. Mortgagees may inspect the Association's books and records, including the Documents, by appointment, during normal business hours.

12.4.3 FINANCIAL STATEMENTS. If a Mortgagee so requests, the Association will give the Mortgagee an audited statement for the preceding fiscal year within 120 days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.

12.4.4 RIGHT OF FIRST REFUSAL. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Lot does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure of a deed of trust lien.

12.5 INSURANCE POLICIES. If an Underwriting Lender is a Mortgagee or an Owner, at the request of the Underwriting Lender the Association will comply with the Underwriting Lender's insurance requirements to the extent the requirements are reasonable and available, and do not conflict with other insurance requirements of this Declaration.

ARTICLE 13
Amendments

13.1 CONSENTS REQUIRED. As permitted by this Declaration, certain amendments of this Declaration may be executed by Declarant alone. Otherwise, amendments to this Declaration must be approved by Owners of at least a majority of the Lots.

13.2 METHOD OF AMENDMENT. For an amendment that requires the approval of Owners, this Declaration may be amended by any method selected by the Board from time to time, pursuant to the bylaws, provided the method gives an Owner of each Lot the substance, if not exact wording of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

13.3 EFFECTIVE. To be effective, an amendment must be in the form of a written instrument (1) referring to the name of the property, the name of the association, and the recording data of this Declaration and any amendments thereto; (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners and, if required, Eligible Mortgagees; (3) recorded in the real property records of Dallas and Tarrant Counties, Texas.

13.4 DECLARANT PROVISIONS. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without Declarant's written and acknowledged consent.

13.5 MERGER. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by Owners of at least a majority of the Lots. Upon the merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property, together with the covenants and restrictions established upon any

other Property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

13.6 TERMINATION. Termination of the terms of this Declaration and the status of the Property as a planned unit development are according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by Owners of at least 67 percent of the Lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners. In all other circumstances, an amendment to terminate must be approved by Owners of at least 80 percent of the Lots.

13.7 CONDEMNATION. In any proceeding, negotiation, settlement, or agreement concerning condemnation of the Area of Common Responsibility, the Association will be the exclusive representative of the Owners. The Association may use condemnation proceeds to repair and replace any damage or destruction to the Area of Common Responsibility, real or personal property, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

ARTICLE 14

GENERAL PROVISIONS

14.1 COMPLIANCE. The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and all applicable laws, regulations, and ordinances, as same may be amended from time to time, of any government or quasi-governmental entity having jurisdiction over the Association or Property.

14.2 NOTICE. All demands or other notices required to be sent to an Owner or Resident by the terms of this Declaration shall be sent by certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an Owner fails to give the Association an address for mailing, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether or not he actually receives it.

14.3 SEVERABILITY. Invalidation of any provision of the Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general statement.

14.4 CAPTIONS. In all Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.

14.5 APPENDIXES. The appendixes listed below are attached to this Declaration and incorporated herein by reference. The appendixes to this Declaration include:

A-Description of Subject Land

14.6 INTERPRETATION. Whenever used in the Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, and the plural the singular, where the same would be appropriate.

14.7 DURATION. Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

14.8 MEDIATION AND BINDING ARBITRATION. It is the policy of the State of Texas to encourage the peaceable resolution of disputes through alternative dispute resolution procedures. In that respect, any dispute (whether contract, warranty, tort, statutory or otherwise) arising under, or relating to the Documents including but not limited to any easement, maintenance and repair obligation, architectural covenants and controls, use restrictions, Association and Member Rights, Assessments, foreclosure of a lien or any other matter set forth in the Documents or any rule, policy or amendment to the Documents shall first be submitted to the Board for resolution. If the dispute is not resolved the by Board, such dispute shall be submitted to mediation and then binding arbitration and not by or in a court of law. The arbitrator may award to the prevailing party, if any, as determined by the arbitrator, all or any portion of its

costs and fees. "Costs and fees" may include reasonable expenses of mediation and/or arbitration, including arbitrator's fees, administrative fees, travel expenses and out-of-pocket expenses such as copying and telephone, court costs, witness fees and reasonable attorney's fees. If the parties to a dispute are unable to agree on the appointment of a mediator and/or arbitrator, either party may petition a court of general jurisdiction in the subject county to appoint a mediator and/or arbitrator. It is stipulated and agreed that the filing of a petition requesting appointment of a mediator and/or arbitrator shall not constitute a waiver of the right to enforce binding arbitration.

In any arbitration proceeding between the parties:

- (a) All applicable Federal and State law shall apply;
- (b) All applicable claims, causes of action, remedies and defenses that would be available in court shall apply;
- (c) The proceeding shall be conducted by a single arbitrator selected by a process designed to ensure the neutrality of the arbitrator;
- (d) The parties shall be entitled to conduct reasonable and necessary discovery;
- (e) The arbitrator shall render a written award and, if requested by any party, a reasoned award and;
- (f) Any award rendered in the proceeding shall be final and binding and judgment upon any such award may be entered in any court having jurisdiction.

[The remainder of this page is intentionally left blank]

Dated as of the day and year first above written.

DECLARANT:

By: _____

(Signature)

(Print name)

Title: _____

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned, on this day personally appeared _____, individually, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed this document individually, for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____ 2005.

Notary Public in and for the State of Texas

My commission expires: _____

Appendix A
Legal Description