

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MANOR POINT

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MANOR POINT ("Declaration") is made effective upon its recording in the Official Records of Brazos County, Texas, by BLACKROCK BUILDERS, LP, a Texas limited partnership ("Declarant").

WHEREAS, Declarant is the owner of real property described in Exhibit "A" known as MANOR POINT (the "Subdivision").

WHEREAS, Declarant desires to place certain restrictions, easements, covenants, conditions, stipulations: and reservations upon and against the Subdivision in order to establish a uniform plan for its development and improvement, and to ensure the preservation of such uniform plan for the benefit of both the present and future Owners of Lots (as defined herein) in the Subdivision.

NOW THEREFORE, Declarant hereby adopts, establishes and imposes upon the Subdivision the following reservations, easements, restrictions, assessments: liens> covenants and conditions, which shall run with the land and title or interest therein<sup>2</sup> or any part thereof, and shall inure to the benefit of each Owner in the Subdivision as a whole, whether or not set out in full or incorporated by reference in any deed or other instrument of conveyance.

### ARTICLE I DEFINITIONS

Section 1.01. "Assessment" means a regular assessment or special assessment, or other amount an Owner is required to pay to the Association under this Declaration or other dedicatory instrument described herein.

Section 1.02. "Association" refers to MANOR POINT OWNERS' ASSOCIATION, INC.; a Texas Nonprofit Corporation, formed or to be formed, and its successors and assigns, which is designated as the representative of Owners in the Subdivision, whose membership consists of Owners, and manages and regulates the Subdivision for the benefit of the Owners.

Section 1.03. "Architectural Control Committee" or shall mean a committee appointed by the Board of Directors to approve or disapprove improvements to be constructed on a Lot pursuant to this Declaration and duly adopted Design Guidelines.

Section 1.04. "Board of Directors" refers to the governing body of the Association.

Section 1.05. "Bylaws" shall mean the duly adopted bylaws of the Association as the same may be amended from time to time.

Section 1.06. "Collection agent" means a debt collector as defined by Section 803 of the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692a).

Section 1.07. "Common Area" refers to the real property in the Subdivision (including improvements) owned by the Association for the common use and enjoyment of the Owners, including, but not limited to the detention area or areas that may be created by Declarant.

Section 1.08. "Contractor" refers to the person or entity with whom Declarant or an Owner contracts to construct a residential dwelling and other improvements on a Lot.

Section 1.09. Classes of Membership. The Association Manor Point has two classes as membership:

- (a) "Class A Members" are the Owners;
- (b) "Class B Member's is the Declarant, its successors and assigns.

Section 1. 10. "Declarant Control Period" Shali mean and refer to the period of time during which the Class "B" Member is entitled to appoint and remove the members of the Board of Directors and the officers of the Association, other than Board members or officers elected by Members of the Association pursuant to the Bylaws.

Section 1.11. "Declaration" refers to this Declaration of Covenants, Conditions and Restrictions for Manor Point, and any duly passed and recorded amendments that include restrictive covenants governing the Subdivision.

Section 1.12. "Dedictory instrument" means each governing instrument covering the establishment, and operation of the Subdivision. The term includes the Declaration, Bylaws, Architectural Control Rules and Regulations: Open Records and Records Retention Policies: and Alternative Payment Schedule, and all lawful amendments. All dedicatory instruments shall have no effect until filed in the real property records of each county in which the Subdivision is located,

Section 1.13. "Development Period" means the period in which Declarant reserves a right to facilitate the development, construction, and marketing of the Subdivision.

Section 1.14. "Lot" refers to any designated parcel of land in the Subdivision including any improvements.

Section 1.15. "Maintenance Charge" means assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, as hereinafter provided, and shall be a charge on the Lots and shall be a continuing lien upon the Lot against which each such Maintenance Charge and other charges and assessments are made,

Section 1.16."Maintenance Fund" shall mean the Association's accumulation of funds from Regular and Special Assessments as we" as income and revenue from other legitimate sources as prescribed in this Declaration.

Section 1.17. "Managing Agent" means the Association's designated representative as it appears on the Management Certificate.

Section 1.18. "Management Certificate" means the instrument required to be recorded pursuant to Section 209.004 of the Texas Residential Property Owners Protection Act.

Section 1.19. "Member" refers to every Owner or entity which holds membership in the Association by virtue of its ownership of a Lot.

Section 1.20. "Owner' means a person who holds record title to a Lot and includes the personal representative.

Section 1.21. "Plat" shall refer to the plats of the Subdivision recorded under Document Number \_\_\_\_\_ all in the Official Records of Brazos County, Texas.

Section 1.22. "Regular Assessment" means an assessment, charge, fee, or dues that each Owner is required to pay to the Association on a regular basis and that is designated for use by the Association for the benefit of the Subdivision, as provided herein.

Section 1.23. "Rules and Regulations" or "Rules" mean the Rules and Regulations of the Association as may be amended from time to time.

Section 1.24. "Special assessment" means an assessment, charge or dues, other than a regular assessment that each Owner is required to pay to the Association for defraying in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction unexpected repair: or replacement of a capital improvement in Common Areas, including the necessary fixtures and personal property related to the Common Areas; maintenance and improvement of Common Areas; or other purposes the Association as stated in its Certificate of Formation: or dedicatory instruments of the Subdivision.

Section 1.25. "Texas Residential Property Owners Protection Act" or "The Act" shall refer to Texas Property Code Chapter 209, as same may be amended or repealed in whole or in part,

Section 1.26. "Transfer Fee" means dues, a fee, a charge, an assessment, a fine, a contribution; or another type of payment under this Declaration, other dedicatory instrument, or under law including a fee or charge payable for a change of ownership entered in the records of the Association.

## ARTICLE II RESERVATIONS, EXCEPTIONS AND DEDICATIONS

Section 2.01. Plats. The Plats subject the Subdivision to the limitations as set forth therein, and the roads, streets: and easements shown thereon. The Plats further establish certain restrictions applicable to the Subdivision. All dedications, restrictions and reservations created by this Declaration or shown on the Plat, re-plats or amendments of the Subdivision recorded or hereafter recorded shall be construed as being included in each Loti deed or conveyance executed or to be executed, whether specifically referred to therein or not.

Section 2.02. Utility Easements. All dedications, limitations, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights made prior to the Subdivision becoming subject to this Declaration are incorporated herein by reference and made a part hereof for all purposes as if fully set forth herein, Neither the Association nor any utility provider, political subdivision or other authorized entity using easements herein referred to shall be liable for any damages done by them or their assigns: agents, employees, or to fences, shrubbery, trees and lawns of the Owner on the Subdivision covered by these easements.

Section 2.03 Title Subject to Easements. It is expressly agreed and understood that the title conveyed to any of the Lots by deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, electric lighting, electric or telephone purposes, dedicated on plats of the Subdivision in effect at this time, and other easements hereafter granted affecting the Lots, The Owners of the respective Lots shall not be deemed to own pipes,

wires, conduits or other service lines running through their Lots which are utilized for or service to other Lots, but each Owner shall have an easement over and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

Section 2.04. Association's Easements. The Association hereby reserves an easement that allows access to an Owner's Lot to remedy a violation of this Declaration or other Association dedicatory instruments; however, the Association may not amend this Declaration or other dedicatory instrument to grant itself additional easements through or over an Owners Lot without the consent of the Owner.

Section 2.05 Addition of Land. Declarant may, at any time and from time to time, add any other lands to the Subdivision, and upon such addition, this Declaration and the covenants, conditions, restrictions, and obligations set forth herein shall apply to the added land, and the rights, privileges, duties, and liabilities of the persons subject to this Declaration shall be the same with respect to the added- land as they are with respect to the lands originally covered by the Declaration. In order to add lands to the Subdivision hereunder, Declarant shall be required only to record in the Official Records of Brazos County, Texas, a Notice of Addition of Land containing the following provisions:

- (a) A reference to this Declaration: which reference states the book and page numbers of the Official Records of Brazos County wherein this Declaration is recorded;
- (b) A statement that the provisions of this Declaration shall apply to the added land; and
- (c) A legal description of the added land.

Section 2.06 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw areas from the Subdivision, and upon such withdrawal, this Declaration and the covenants, conditions, ~~restrictions~~, and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw land from the Subdivision hereunder, Declarant shall be required only to record in the Official Records of Brazos County, Texas, a Notice of Withdrawal of Land containing the following provisions:

- (a) A reference to this Declaration, which reference shall state the book and page numbers of the Official Records of Brazos County wherein this Declaration is recorded;
- (b) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- (c) A legal description of the withdrawn land.

### ARTICLE III THE ASSOCIATION

Section 3.01. Membership. Every person or entity which is a recorded owner of any Lot which is subject to the Maintenance Charge and other assessments provided herein shall be a Member of the Association. The foregoing is not intended to include persons or entities which hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No Owner shall have more than one membership for each Lot owned by such Member. Memberships shall be appurtenant to and may not be separated from the

ownership of the Lots. Regardless of the number of persons who may own a Lot (such as husband and wife, or joint tenants, etc.) there shall be but one membership for each Lot. Additionally, after the expiration of the Declarant Control Period, the Directors of the Association must be Members of the Association. Ownership of the Lots shall be the sole qualification for membership. The voting rights of the Members are set forth in the Bylaws of the Association. Membership is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. The rights and privileges of membership: including the right to vote, may be exercised by a Member or the Member's designated representative.

Section 3.02. Classes of Membership. The Association shall have two (2) classes of membership as follows:

a. Class "A" Members shall be all Lot Owners with the exception of the Class "B" Member.

b. Class "B". The Class "B" Member shall be Declarant and any successor oi Declarant who takes title for the purposes of development and sale of Lots in the Subdivision.

Section 3.03. Voting, Class "R" Members shall be entitled to one (1) vote for each Lot of which they are record Owner. Class "B" Member shall be entitled to ten (10) votes per Lot owned. The Class "B" membership shall terminate and be converted to Class "A" on or before the 120th day after the date seventy-five percent (75%) of the Lots that may be made subject to this Declaration are conveyed to Class "A" Members.

Section 3.04. Appointment of Board of Directors. During the Declarant Control Period, the Class "B" Member is entitled to appoint and remove the members of the Board of Directors and the officers of the Association. Notwithstanding, at least one-third (1/3) of the members of the Board shall be elected by the Owners other than the Declarant not later than the tenth (10th) anniversary after this Declaration was recorded in the Official Records of Brazos County, Texas,

Section 3.05. Nonprofit Corporation. Manor Point Owners' Association Inc., a nonprofit corporation, has been organized and it shall be governed by the Chapter 22 of the Business Organizations Code, the Certificate of Formation, and Bylaws of the Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

Section 3.06. Bylaws. The Association has adopted Bylaws to govern the organization or operation of the Subdivision and the use and enjoyment of the Lots and Common Area; provided that the same are not in conflict with the terms and provisions in this Declaration.

Section 3.07. Owner's Right of Enjoyment. Every Owner shall have a beneficial interest of use and enjoyment in and to the Common Areas and such right shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) This Declaration, as it may be amended from time to time;
- (b) Any restrictions or limitations contained in any deed conveying additional Common Area to the Association;
- (c) The right of the Board to limit the number of guests who may use the Common

Area, and to adopt other Rules and Regulations regulating the use and enjoyment of the Common Area;

(d) The right of the Board to suspend the right of an Owner to use any recreational facilities within the Common Area for any period during which any Assessment or portion thereof owed by such Owner remains delinquent and for a period not to exceed sixty (60) days for a single violation, or for a longer period in the case of any continuing violation, of the Declaration, Bylaws, or Rules and Regulations of the Association;

(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to the approval of sixty-seven percent (67%) of the votes of all Members eligible to vote;

(f) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees (which fees shall be separate from Assessments) for the use of any recreational facility situated upon the Common Area;

(g) The right of the Board to permit non-Member use of any recreational facility situated on the Common Area upon payment of user fees established by the Board;

(h) The right of the Association, acting through the Board, to mortgage any and all of its real or personal property as security for money borrowed or debts incurred, subject to the approval of sixty-seven percent (67%) of the votes of all Members eligible to vote;

(i) All easement rights necessary or desirable for the Association to perform its duties and enforce this Declaration;

(j) The right of the Association, acting through the Board, to grant easements pursuant to this Declaration; and

(k) The right of the Association, acting through the Board, to enter into and execute contracts with any party for the purpose of providing maintenance or other materials or services consistent with the purposes of the Association and this Declaration.

Section 3.08. Delegation of Rights. Any Owner may delegate his or her right of enjoyment of the Common Area to the members of his or her family, tenants, customers, client\* employees, agents, contractors, business, and social and business invitees subject to reasonable regulation by the Board and in accordance with procedures the Board may adopt. Every Owner shall have the right to ingress and egress over, upon, and across the Common Area necessary for access to any portion his or her Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

Section 3.09. Declarant's Rights in Common Area. Declarant may retain the legal title to easements or fee simple parcels designated as Common Area. Declarant may at any time after the date hereof, convey legal title to all or a portion of such Common Area to the Association. The Association shall be obligated to accept title to: operate and maintain the Common Area conveyed to the Association as elsewhere provided in this Declaration; provided, however, such Common Area shall be conveyed to the Association by Declarant free and clear of all

encumbrances, except such encumbrances as may be set forth herein or on any recorded plat of the Subdivision.

## ARTICLE IV USE AND CONSTRUCTION RESTRICTIONS

Section 4.01. use. Each Lot in the Subdivision shall be used only for residential related purposes as set forth BE. The Association, acting through the Board of Directors and ACC shall have the right and power to enforce the restrictions contained in this Declaration and all other dedicatory instruments.

Section 4.02. Single Family Residential Construction. Except as provided below, no building shall be erected, altered, placed or permitted to remain on any Lot other than one dwelling unit per each Lot to be used for single family residential purposes not to exceed two and one-half (21/2) stories . All dwellings must conform to the Architectural Control Guidelines and approved by the ACC prior to construction. Any improvement commenced on any Lot shall be completed as to exterior finish and appearance within six (6) months from the construction commencement date. Al garages will be of the same genera; construction as the main dwelling, and located on the Lot according to the building site plan approved by the ACC. All construction must meet the requirements and specifications set forth by the City of Bryan's building codes and ordinances.

Section 4.03. Composite Building Site. Any Owner of one or more adjoining Lots (or portions thereof) may, with the prior written approval of the ACC, and with approval of the City of Bryan and/or Brazos County permitting department, if required, consolidate such Lots, with the privilege of placing cc constructing improvements on such resulting site, in which case the side set-beck lines shall be measured from the resulting side property tines rather than the Lot lines as indicated on the Plat.

Section 4.04. Use of Temporary Structures. No structure of a temporary or permanent character: whether trailer, motor home, mobile home, manufactured home, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot at any time es a residence, either temporarily or permanently without the prior written approval of the ACC; provided, however, that the Declarant may maintain or authorize temporary structures necessary for storage of tools and equipment: and for office space for architects, builders and foremen on a Lot during any period of actual construction, which authorization, if given, shall include the nature, size, duration and location of such structure or structures.

Section 4.05. Walls, Fences and Mail Boxes. Walls and fences must be approved prior to construction by the ACC and shall not be closer to front street property lines than the Lot boundary line and no fence can be further forward then the foremost corner of the house. Wire and chain link fencing shall not be permitted. Fences must be constructed of wood, masonry wrought iron or a combination thereof ail individual must be of masonry construction and approved by the ACC. No individual mailboxes on the property. Mailboxes will be clustered boxes.

Section 4.06. Prohibition of Offensive Activities. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Subdivision so as to be offensive or detrimental to any other portion of the Subdivision or to its occupants. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or to nuisance to neighboring property, except for reasonable security or landscape lighting that has the approval

of the ACC. No activity, whether for profit or not, shall be conducted on any Lot which is not related to single family residential purposes, unless said activity meets the following criteria: (a) no additional exterior sign of activity is present, (b) it is the type of action that usually happens in e home, (c) no additional traffic, that would not be there normally is created, and (d) nothing dangerous is present. The Board shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance,

Section 4.07. Garbage and Trash Disposal. Garbage and trash or other refuse shall not be permitted to be dumped at any place upon the Subdivision or adjoining lend. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste Sheil not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of regularly. Ail equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 4.08. Roof Shingles. Subject to this section, and approval by the ACC, Owners may install shingles that are designed to be wind and hail resistant, provide heating and cooling efficiencies greater and are more durable than those provided by customary composition shingles, and/or provide solar generation capabilities; however, when installed, they must resemble the shingles used or otherwise authorized for use on improvements on Lots in the Subdivisi0im and match the aesthetics of the Subdivision.

Section 4.09. Flags and Flagpoles. Subject to this section, and approval by the ACC, Owners may display a flag of the United States of America\* the flag of the State of Texas, or an or replica flag of any branch of the United States armed forces. The flag of the United States shall only be displayed in accordance with 4 U.S.C. Sections 5-101 which qualify the times and occasions for the flees display, the position of the flag, and respect for it. The flag of the State of Texas shall only (be displayed in accordance with Chapter 31 of the Texas Government Code. A flagpole attached to a dwelling or a freestanding pole is to be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling on the Lot The display of the flag, and its location and construction of the supporting flagpole shall comply with appropriate ordinances, easements and setbacks of record, and a displayed flag and flagpole on which it is flown shall be maintained in good condition.

Any deteriorated flag or structurally unsafe flagpole Shali be repaired, replaced or removed. A. flagpole attached to the dwelling on a Lot may not exceed six (6) feet in height A freestanding flagpole shall not exceed twenty (20) feet in heigh% measured from the ground base to the top of the flagpole. illumination of permitted flags must be sub-surface end not exceed 200 watts, and positioned in a manner not directed toward and adjacent Lot. A flag displayed on a freestanding flagpole shall not be more than ten (10) feet in height, and a flag displayed an a flagpole attached to a dwelling shall be no more than three (3) by five (5) feet No more than one of each permitted flags may be displayed on a flagpole at any time. Owners may not install flagpoles or display flags in the Common Area without the express written consent of the Association.

Section 4.10. Religious Item Displays. Subject to this section, and approval by the ACC, Owners may display or affix on the entry to the Owners dwelling one or more religious items the display of which is motivated by the Owners or residents sincere religious belief No religious item may individually or in combination exceed twenty-five (25) square inches: and shall not extend past the outer edge of the door frame of the dwelling. Notwithstanding the foregoing the display or

affixation of a religious item on an Owners dwelling that threatens public health or safety, violates a law, or contains language, graphics, or any display that is patently offensive to a passerby is prohibited. This section does not authorize an Owner to use a material color for an entry door or door frame; or make an alteration to the door or door frame of the Owner's dwelling that is not authorized by the ACC and Design Guidelines. The Association may remove an item displayed in violation of this section.

Section 4.11. Solar Energy Devices. Subject to this section, and approval by the ACC within forty-five (45) days of submission of a plan, Owners may install solar energy devices on the roof of the dwelling or other permitted improvement on a Lot, or in a fenced yard or patio not taller than the fence line. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171.107 of the Tax Code, which defines the term as system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power the term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power A solar energy device is not permitted anywhere on a Lot except on the roof of the residential dwelling or other permitted structure on the Lot or in a fenced yard or patio within the Lot. A solar energy device may not extend higher than the dwelling's or other permitted improvements roofline, and shall conform to the slope of the roofline, shall have a frame, support or visible piping that is a silver; bronze, or black tone commonly available in the marketplace, and shall be located on a roof as designated by the ACC, unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the ACC For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory. A solar energy device located in a fenced yard or patio shall not be taller than or extend above the fence enclosing the yard or patio. A solar energy device shall not be installed on a Lot in a manner that voids material warranties. A solar energy device that, as adjudicated by a court threatens the public health or safety: violates a law, or is located in the Common Area is prohibited. The ACC may not withhold approval if the guidelines of this section are met or exceeded, unless the ACC determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes prime facie evidence that substantial interference does not exist. During the Development Period, Declarant may prohibit or restrict an Owner from installing a solar energy device.

Section 4.12. Rain Barrels and Rain Harvesting Systems. Section 202.007 of the Texas Property Code prohibits the Association and ACC from enforcing a provision that prohibits or restricts an Owner from installing rain barrels or a rain harvesting system on the Owners Lot However, Section 202.007 of the Texas Property Code further provides that the Association is not required to permit a rain barrel or rainwater harvesting system to be installed on a Lot in particular circumstances or restricted from regulating rain barrels and rain harvesting devices in specified manners, as follows: No rain barrel or rainwater harvesting system shall be permitted in the Common Area or-located on a Lot between the front of the dwelling and an adjoining or adjacent street, be of a color inconsistent with the color scheme of the Owners dwelling, display any language or other content that is not typically displayed by a barrel or system as it is manufactured. The Design Guidelines shall regulate the size, type and shielding of} and the

materials used in the construction of, a rain barrel, rainwater harvesting device: or other appurtenance that is located on the side of a dwelling or any other location that is visible a street another Lott or the Common Area, if it does not prohibit the economic installation of the device or appurtenance on the Owner's Lot There must be a reasonably sufficient area in a Lot to install these devices and appurtenances.

Section 4.13. Signs. Owners may display on the Owner's Lot one or more signs advertising e political candidate or ballot item for an election on or after the ninetieth (90th) day before the date of the election to which the sign relates or ten (10) days after that election date. Signs shall be ground-mounted and display only one sign for each candidate or ballot Item. Any sign that contains roofing material siding, paving materials, flora, one or more balloons or lights, or any other similar landscaping or nonstandard decorative components, is attached in any way to plant material, a traffic control device, a fight, a trailer, a vehicle, or any other existing structure or object, includes the painting of architectural surfaces, threatens the public health or safety, is larger than four (4) feet by six (6) feet, violates a law, contains language, graphics, or any display that would be offensive to the ordinary person, or is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists prohibited. The Association may remove a sign displayed in violation of this section.

Section 4.14. Laws and Ordinances. Owners, their lessees, guests, and invitees, shall comply with all laws, ordinances and statutes applicable to their Lot and the Subdivision, and any violation may be considered a violation of this Declaration or other dedicatory instrument.

Section 4.15. Occupancy. No structure shall be occupied or used until the exterior construction thereof is completed: the interior construction is substantially completed, and a certificate of occupancy has been issued by the City of Bryan. A residence may only be occupied by:

- (a) A single-family unit which may consist of the owner of the residence, his or her spouse, his or her children, and his or her parents; or
- (b) No more than two unrelated individuals and lineal descendants thereof; or
- (c) The owner, the spouse of the owner, the parents of the owner, or the lineal descendants of the owner and their authorized guests, but which is not used by such persons as a rooming or boarding house for unrelated persons; or
- (d) Not more than four unrelated persons and lineal descendants thereof under a lease agreement with the owner of the residence; or
- (e) A single-family unit consisting of no more persons than are otherwise authorized herein under a lease agreement with the owner of the residence.

Section 4.16. Construction and Sales Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of improvements by an Owner (including Declarant) upon any Lot within the Subdivision, or the sale of any Lot thereafter. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence the improvements, and then the material shall be placed within the property lines

of the Lot upon which the improvements are to be erected and shall not be placed on the street or on any other part of the Subdivision. In the event of any dispute regarding such matters, the ACC may grant a temporary waiver of the applicable provision, for a period of time to be determined by the ACC in its sole and absolute discretion. At such time as the Declarant ceases using any portion of the Subdivision as a model home or sales office, the affected property shall be altered and/or remodeled, if necessary or desirable\* to comply with the covenants and restrictions contained herein.

Section 4.17. Dwelling Size. Unless an exception is granted by the ACC, all single-family dwellings on Lots shall be no less than 1000 square feet of enclosed living exclusive of all porches (open or covered), decks and garages.

Section 4.18. Setback Requirements. No building shall be located or erected nearer to any Lot line than the building line shown on the Plat which includes such Lot.

Section 4.19. Facing Residences. Unless an exception is granted by the ACC residences on corner Lots shall face the street from which the greater building setback is shown on the Plat.

Section 4.20. Building Materials. Only new construction material (except masonry) shall be used in constructing any structures in the Subdivision. Exterior colors (for house, fence, roof, and other residential appurtenances), stone or other masonry colors and exterior shutter or door colors all must be approved in writing by the ACC. Exterior walls must have 100% masonry coverage on any side facing a street and no less than 50% masonry coverage for the entire structure (coverage excludes windows and door openings and gables). The term "masonry" as used in this Section 4.20 shall be defined to include cement fiber board (hardy plank). Stucco exterior walls shall be the traditional three (3) coats process. This includes initial construction and any repainting after initial construction.

Section 4.21. Garages. Each and every residential structure shall have a garage to be constructed at the time of construction of the main residence, and shall be constructed for not less than one (1) automobile otherwise approved by the ACC. No garage shall ever be changed, altered, enclosed, or otherwise converted for any purpose other than for the housing of automobiles or other vehicles unless approved by the ACC. All roof materials must be of the same nature as the materials used on the main residential dwelling and all exterior garage walls must be constructed of the same material or other similar material, as the exterior of the main residential dwelling. Any storage buildings, outbuildings or other structures must be located in the rear yard and screened with fencing from view from streets adjoining the lot containing such structures. Any such additional building structures shall be only one story and their location, height, size, building materials and colors must be approved in writing by the ACC, prior to construction. Unless approved in writing to the contrary by the ACC, garages may not be enclosed unless the original size of garage door is continuously maintained and the visible portion of the residence from the street is not altered. Window unit air conditioners, seen from any street, are not allowed anywhere in the residence structure, including an enclosed garage area. In no way shall the fact that a garage has been enclosed be visually detectable from the street. No exterior door or window may be added to the front of the house within, or in place of, the original garage door if a majority of the garage is enclosed. Additionally, any enclosure of the garage must be approved in writing by the ACC. Garage doors visible from any street shall be kept in the closed position when the garage is not being used.

Section 4.22. Doors and Windows. All windows facing the street on any dwelling shall have draperies or shutters. No "burglar bars," steel or wrought iron bars, or similar fixtures, whether designated to decorative, security or other purposes, shall be installed on the exterior of any windows or doors of any dwelling. No signs, numerals or other writing shall be written on or placed in the windows, or exterior walls of any dwelling, either temporarily or permanently\* except that the Board may, in its discretion, permit house numbers to be written temporarily on a single window of a dwelling while occupants are moving in, provided such numbers are removed within seventy-two (72) hours after the occupants have taken occupancy. Sheets or similar temporary window treatments may be used for a short time after taking occupancy of a dwelling, provided they are removed and replaced with permanent window treatments within a reasonable time, not to exceed fourteen (14) days, after taking occupancy of the dwelling, as determined in the sole discretion of the Board. Foil cardboard, plywood} newspaper, or bed linens shall not be used as window coverings at any time, except for bona fide emergencies of less than three (3) weeks.

Section 4.23. Mining and Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operation of any kind shall be permitted upon or in any Lot nor shaft oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot. No well, pump, shaft, casing or other facilities for the removal of subsurface water shall be placed or maintained on any Lot, and no boring, drilling, removal or exploration for subsurface water or the injection of water or wastewater shall be conducted on any Lot.

Section 4.24. Livestock. No animals, livestock, poultry or insects of any kind shall be raised, bred or kept on any Lot except that dogs (excluding Pit Bulls, Chows, Rottweiler, Dobermans or any dog with a wolf mix, which are strictly prohibited), cats, fowl, or other household pets may be kept if they are not used, maintained or bred for any commercial purposes, and provided such pets do not become a nuisance to the neighborhood. All dogs with a previous record of aggressive behavior or instances of biting shall be fenced.

Section 4.25. Maintenance of Building Sites and Lots. All building sites and Lots, whether improved or unimproved, shall be kept in a sanitary and attractive condition and shall in no event be used for storage of material and equipment except for normal residential requirements incidental to construction of improvements thereon as herein permitted. No owner of any Lot shall permit the accumulation or burning of garbage, trash, or rubbish of any kind thereon. Those portions of each improved Lot that are visible from the street, primarily the front yard, shall be maintained with domestic grass and/or suitable ground cover, integrated with any natural trees and bushes that may be incorporated into the landscaping. In any case whether a yard is primarily covered with grass and/or ground cover or largely covered with natural growth, the yard shall be kept in a manner consistent with a well-maintained attractive neighborhood.

If the owner of any Lot fails to keep the grass and vegetation cut as often as may be necessary to maintain the Lot in a neat and attractive condition, the Association may have the grass or vegetation cut, and the Lot owner shall be obligated to pay, or otherwise reimburse the Association, for the cost of such work. By acceptance of its grant deed, each Lot owner is the Subdivision grants to the Association authority to enter upon such owner's property without threat of trespass or other liability against the Association excepting willful misconduct by Association, its officers, employees, and agents.

Section 4.26. Alteration or Removal of Improvements. Exclusive of normal maintenance, any construction or removal in connection with any improvement, which in any way alters the exterior appearance of said improvement, shall be performed only with the prior written approval of the ACC.

Section 4.27. Vehicles. No vehicle or trailer, which is inoperative, wrecked, dismantled, discarded or which does not have (i) a lawful license affixed thereto, (ii) an unexpired license plate or plates and (iii) a valid motor vehicle safety inspection certificate, shall be permitted upon any Lot. If visible from the street for a period longer than 72 hours such violative vehicles shall be subject to being towed away by the Association at the owner's expense.

No truck or van with more than two axles, service vehicles (including but not limited to, those containing multiple tool boxes, ladder racks, welding equipment, construction equipment or other similar equipment or accessories), boat, trailer, motor home, mobile home, house trailer, or recreational vehicle, may be kept on the street in front of any Lot or upon any Lot, unless it is kept inside the garage or yard areas, behind fences or walls, and concealed from public view. No vehicle of any kind may be parked on lawn areas for any reason. These restrictions shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and used for the construction, repair and maintenance of the Subdivision or of any properties in the Subdivision. Passenger vehicles may be parked on the street in front of lots for periods of time not to exceed twelve (12) hours in any twenty-four (24) hour period. Any vehicle parked for a time may be towed away by the Association at the Lot owner's expense. This restriction is not to be construed to prohibit periodic overnight guests from parking on the street but is to specifically prohibit residents from using the street as the usual overnight parking for vehicles. No major repair work, dismantling or disassembling of motor vehicles or other machinery or equipment shall be permitted in or on any drive, street, garage, carport, or any part of any Lot.

No motorcycles, motorbikes, dirtbikes, motor-scooter, go carts or three and four wheel "offroad" vehicles, nor any similar vehicles, whether licensed or unlicensed may be by unlicensed operators on any Lot or on any street in the Subdivision. Furthermore, no motor vehicle that is operated: either legally or illegally, on the lots or on the streets of the Subdivision shall be permitted to make or emit any noxious or offensive noises, or fumes, or to be operated in such a manner that may be or become a danger, nuisance, or annoyance to the neighborhood,

No commercial vehicles larger than a standard three-quarter (3/4) or one (1) ton pickup truck or standard two-axle passenger van shall be permitted to remain on any Lot or to be parked on any roadway within the Subdivision.

No article or vehicle deemed to be unsightly by the ACC shall be permitted to remain on any lot so as to be visible from adjoining property or from any street.

Section 4.28. Fences. No fence, wall or any other structure shall be erected, added; or placed on any Lot nearer to any front lot line than the nearest front corner of the residential dwelling, unless approved by the ACC. All fences, and walls shall be of a natural and quality so as to be harmonious with, and enhance, and not detract from the general appearance of the Subdivision and must be approved in writing by the ACC prior to construction. Each individual Lot owner is responsible for keeping, repairing, replacing, and maintaining any existing fence or wall that is on the owner's Lot or adjacent right-of-way. All fences will be made of cedar

spruce, fir, pine, hardwood or ornamental metal unless otherwise approved by the ACC Cyclone fences are allowed only if fully screened from public view (i.e., "dog runs"); however any and all such cyclone fences and the use thereof must first be approved in writing by the ACC. Fences may be reasonably stained to enhance natural appearance but are not to be painted unless approved by the ACC, The "good side" of the fence (that is, the side that shows fence slats or pickets only) Shall always face the public street closest to such fence or common as appropriate. Final approval of fencing and its facing shall be at full discretion of the ACC.

Section 4.29. Machinery and Equipment. Without the approval of the Association or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in Brazos County, Texas, in connection with the use, maintenance, or construction of a private residence or appurtenant structures or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be placed, operated or maintained by any governmental or quasi-governmental agency, or by any public utility, in the performance of its legitimate functions.

Section 4.30. Clotheslines: Garbage Cans. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon a Lot and no colors shall be permitted to arise therefrom so as to render the Subdivision or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or its occupants. No clotheslines shall be erected or installed on the exterior portion of any Lot and no clothing, linens or other material shall be aired or dried on the exterior portion of any Lots unless screened from view from any adjacent lot or street. All garbage cans, above-ground storage tanks, mechanical equipment, woodpiles, yard equipment and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets: and properly located adjacent to the Lot, All rubbish trash: and garbage shall be stored in appropriate containers approved by the Board and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon. If rubbish or debris accumulates upon any Lot in violation of this provision in the judgment of the Association, the Association may remove the rubbish or debris, and charge a special assessment to the Owner of the Lot.

Section 4.31. Hazardous Activities. No activities shall be conducted within the Subdivision, and no improvements shall be constructed on the Subdivision that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Subdivision, and no open fires shall be lighted or permitted on a Lot except in contained barbeque units while attended and in use for cooking purposes, or within safe and well-designed (i) interior fireplaces, (ii) exterior fireplaces, or (iii) outdoor chimneys (or chimineas).

Section 4.32. Antennas. No external antennas of any kind shall be permitted on any Lot within the Subdivision without prior written approval of the ACC as to antenna size, height, placement, and visibility. No satellite antenna nor any antenna dish may be parked, erected, or installed either permanently or temporarily on any Lot, except in backyard areas where it is substantially concealed from public view.

Section 4.33. Recreational Equipment. No recreational equipment, including, but not limited to swing sets, skateboard ramps, bicycle ramps, or basketball goals shall be permitted in the front yard of any Lot.

Section 4.34. Above-Ground Pools Prohibited. No above ground level swimming pool may be installed or kept on any Lot: and any swimming pool shall be designed and engineered in compliance with the City of Bryan Building Code. Back-washing of swimming pools is prohibited upon any adjoining property and must be directly connected to the appropriate drainage system.

Section 4.35. Detached Permanent Storage Building. Detached storage facilities of a permanent nature used by an Owner may be located upon any Lot so long as is shielded from view from the street and does not exceed eight feet (8') in height unless approved by the ACC.

Section 4.36. Wind Generators. No wind generators shall be erected or maintained on any Lot if the wind generator is visible from any other Lot or street.

Section 4.37. Insurance Rates. Nothing shall be done within the Subdivision which would cause an increase in the rate of insurance or the cancellation of insurance on any Lot or any of the improvements located therein.

Section 4.38. Foundations. No more than eighteen (18) inches of vertical surface can be exposed to street view, All foundations visible from any street must be screened with landscaping as described in Section 4.39 below.

Section 4.39. Landscaping. Landscaping shall mean any proposed modification to any Lot, including, but not limited to, land forming and beaming, irrigation systems, landscaped subsurface or above ground drainage systems, paving, lot furnishings, nonstructural retaining walls, and introduced vegetation according to the plan submitted to and approved by the ACC. All Lots shall be landscaped appropriately with trees, shrubs, vines, ground seasonal flowers, or turf grasses which are commonly used in Southeast Texas for landscaping purposes within 90 days after issuance of a Certificate of Occupancy by the City of Bryan. Extensions to the time limit may be granted by the ACC on a case-by-case basis with the ACC's sole discretion. Grasses and weeds shall at no time be allowed to exceed 6".

Section 4.40. Utilities. All dwellings shall be connected to the water and sewer lines as soon as practicable after same are available at the property line, No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot. All telephone, electric cable, and other service lines shall meet all requirements of the City of Bryan, Texas.

Section 4.41. No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. Any Owner acquiring a Lot in reliance upon one or more such restrictive covenants, terms or provisions shall assume all the risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold the Declarant harmless therefrom.

## ARTICLE V ARCHITECTURAL CONTROL

Section 5.01. Basic Control. No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced or changes made in the design or exterior appearance thereof (excluding, without limitation, painting staining or siding) or any addition or exterior alteration made thereto after original construction or demolition or

destruction by voluntary action made thereto after original constructed, on any Lot in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) from the ACC of the construction plans and specification for the construction or alteration of such improvements or demolition or destruction of existing improvements by voluntary action, Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument Each application made to the ACC shall be accompanied by two sets of plans and specifications for all proposed construction (initial or alteration) to be done on such Lot, including plot plans showing location on the Lot,

Section 5.02. Architectural Control Committee. The authority to grant or withhold architectural control approval as referred to above is in the Architectural Control Committee composed of three (3) Members of the Association, who shall be appointed annually by the Board. The ACC shall have exclusive jurisdiction over all original construction on the Lots and over modifications, additions, or alterations made on or to the improvements on the Lots. During the Development Period, the ACC shall be appointed by Declarant.

Section 5.03. Design Guidelines. The ACC shall adopt such standards or guidelines ("Design Guidelines") as it determines for the construction or alteration of improvements on the Lots and for landscaping, and establish application and review procedures for submitted plans, The ACC shall make the Design Guidelines available to Owners and Contractors who seek to engage in construction upon a Lot and who shall conduct their operations strictly in accordance therewith, The ACC may establish and charge reasonable application fees for its review of plans.

Section 5.04. Consulting Professionals. The ACC is authorized, but not obligated, to retain the services of consulting professionals such as building architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the ACC in performing its functions set forth herein, The costs of the services of such consultants shall be an Owner expense if required for services regarding plans submitted for the Owner's Lot, except to the extent such costs are covered by a plan review fee established by the ACC, if it elects to establish such a fee.

Section 5.05. Effect of Approval. The granting of the approval shall constitute only an expression of opinion by the ACC that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications end plot plan; and, such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plot plan but nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reasons of the good faith exercise thereof.

Section 5.06. Appointment of ACC; Authority of Association: Declarant as Member. During the Development Period, Declarant may appoint all members of the ACC and is entitled to remove and replace any of same, and in all other respects to exercise all rights and authority of the Association as set forth in this Declaration and other dedicatory instruments. Without limitation of the foregoing, the provisions of this Declaration or any other dedicatory instruments regarding qualifications for members of the ACC are hereby specifically declared inapplicable to Declarant during the Development and Declarant Control Periods.

Section 5.07. ACC Approval not Required, Declarant's ACC Authority as to Initial Development of Lots. Declarant and any Contractor as so designated by Declarant are not required to obtain ACC approval or otherwise comply with any provisions of this Article until completion of the initial sale of each Lot, and Declarant hereby reserves and retains full and exclusive authority of the ACC as to each Lot, until completion of the initial sale. The foregoing applies notwithstanding any other provisions of this Declaration or any other dedicatory instruments until completion of the initial sale of all Lots within the Subdivision. As to each Lot, "completion of the initial sale" occurs upon substantial completion of the construction of a single-family residence and related improvements upon the Lot and the sale of the Lot to a person other than Declarant or a builder for use and occupancy of the Lot for a single-family dwelling.

## ARTICLE VI MAINTENANCE FUND

Section 6.01. Maintenance Fund Obligation. Each Owner, by acceptance of a deed to a Lot, whether or not it shall be expressed in any such deed or other conveyance is deemed to covenant and agree to pay to the Association an annual Maintenance Charge, and any other assessments or charges hereby levied.

Section 6.02. Maintenance Charge. The Maintenance Charge shall be used to create the Maintenance Fund, which shall be used as herein provided; and each such Maintenance Charge (except as otherwise hereinafter provided) shall be paid by the Owner of each Lot to the Association. The Maintenance Charge for the year of purchase shall be prorated at closing and then shall be paid annually, in advance, on or before the first day of the first month of each calendar year. Any Maintenance Charge not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the hereinafter described lien against the Owners Lot. No Owner may waive or otherwise escape liability for the Maintenance Charge by the non-use of any Common Areas or by the abandonment of his or her Lot. The initial amount of the Regular Assessment applicable to each Lot will be determined by the Board prior to the beginning of each fiscal year and be due in advance, payable on January 1st of each year. All other matters relating to the Maintenance Charge and the collection, expenditures and administration of the Maintenance Fund shall be determined by the Declarant the Board of Directors of the Association, subject to the provisions hereof, The Association, shall have the right at any time, to adjust the Regular Assessment from year to year as it deems proper to meet the reasonable operating expenses and reserve requirements of the Association in order for the Association to carry out its duties hereunder,

Section 6.03. Special Assessment. In addition to the Regular Assessment, the Association may upon the affirmative vote of two-thirds (2/3) of the Members of the Association at a meeting duly called for such purpose levy a Special Assessment in any year for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Area, including fixtures and personal property. Notwithstanding the foregoing, if an emergency exists such that the Board of Directors determines that the repair of a capital improvement upon the Common Area is necessary to eliminate or reduce the risk of injury to third parties and there is not enough money held by the Association, in reserve or otherwise, to repair the capital improvement to reduce or eliminate this risk, the Board of Directors may levy a Special Assessment in an amount sufficient to repair

the capital improvement to reduce or eliminate such risk without the affirmative vote of two-thirds (2/3) of the Members of the Association.

- Section 6.04. Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to meet the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and general assessment. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget.

Section 6.05. Commencement Date of Annual Assessments. The Association shall levy the first annual Regular Assessment provided for herein, based on the operating budget for the remainder of the initial calendar year, on the first day of the month following the initial conveyance of the Common Area to the Association. Thereafter the Regular Assessments shall continue from calendar year to calendar year.

Section 6.06. Common Area Exempt. All Common Areas and all portions of the Subdivision owned or otherwise dedicated to any political subdivision, shall be exempt from the assessments and liens created herein.

Section 6.07. Transfer and Other Fees. A transfer fee may be charged by the Association or its Managing Agent to reflect changes of ownership, tenancy or occupancy on the records of the Association. The right and authority to set the amount of and receive payment of charges for statements of Maintenance Charges, Regular Assessments, Special Assessments or other indebtedness, resale certificates, and similar responses and transfer fees as aforesaid is deemed to be assigned by virtue of contracting with a Managing Agent to provide the associated functions and services for so long as the applicable contract remains in effect, unless the applicable contract expressly provides otherwise.

## ARTICLE VII

### COLLECTION OF MAINTENANCE CHARGES

Section 7.01. Creation of Lien and Personal Obligation. In order to secure the payment of the Maintenance Charge, and other charges and assessments hereby levied, each Owner of a Lot in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a contractual lien on such Lot, which may be foreclosed judicially or by Expedited Foreclosure Proceedings, pursuant to the provisions of Section 209 0092 of the Act and Texas Rules of Civil Procedure Rules 735 and 736 (and any successor statutes); and each such Owner hereby expressly grants the Association a power of sale in connection therewith. Expedited Foreclosure Proceedings are not required under this section if the Owner of the Lot to be foreclosed agrees in writing to waive said Expedited Foreclosure Proceedings at the time the foreclosure is sought. A waiver under this section may not be required as a condition of the transfer of title to a Lot.

Section 7.02. Prerequisites to Foreclosure. Prior to referring an Owner's account to a collection agent the Association shall provide written notice, by certified mail, return receipt requested, that specifies each delinquent amount and the total amount of the payment required to make the account current, describes the options the Owner has to avoid the referral including

payment plan options, and provides at least 30 days to cure the delinquency before further action is taken.

Section 7.03. Collection Fees. Owners are not liable for costs that are dependent or contingent on amounts recovered, or under an agreement that does not require the Association to pay all fees for the action taken by the collection agent.

Section 7.04. Contact. An agreement between the Association and a collection agent may not prohibit an Owner from contacting the Association's Board of Directors or Managing Agent regarding their delinquency.

Section 7.05. Non-transferability of Lien. The Association shall not sell or transfer its interest in accounts receivable except for the purpose of collateral for a loan.

Section 7.06. Alternative Payment Schedule. Pursuant to Section 209.062 of the Act, the Association hereby adopts reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments for delinquent or special assessments or any other amount owed without incurring additional penalties. The Association hereby adopts the following guidelines with regard to alternative payment schedules for delinquent assessments and other amounts owed by an Owner:

(a) Term: The minimum term for a payment agreement shall be (3) three months and the maximum shall be (18) eighteen months from the date of the Owner's request for a payment plan. Subject to such minimum and maximum terms, the Association shall determine the appropriate term of the payment plan in its sole discretion.

(b) Form: Any and all alternative payment agreements shall be in writing and signed by the Owner and a duly authorized member of the Board of the Association.

(c) Additional Monetary Expense: So long as an Owner is not in default under the terms of the payment agreement, the Owner shall not incur additional monetary expenses; however, the Owner shall be responsible for all interest accrued during the term of the payment plan as well as reasonable costs associated with administering the payment plan or interest.

(d) Application of Payments: If at the time the Association receives a payment, the Owner is not in default under an alternative payment agreement, the Association shall apply the payment to the owner's debt in the following order of priority: (a) any delinquent assessment; (b) any current assessment; (c) any attorney's fees or third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure; (d) any attorney's fees incurred by the Association that are not subject to subsection (c); (e) any fines assessed by the Association; and (f) any other amounts owed to the Association.

(e) Default: If the Owner defaults under a payment plan agreement, the account may immediately be turned over to the Association's attorney for collection. The Association shall not be required to enter into an alternative payment agreement with an Owner who failed to honor the terms of a previous payment agreement during the two (2) years following the Owner's default under the previous alternative payment agreement. At the discretion of the Association, an Owner who failed to honor the terms of a previous payment agreement may be required to waive Expedited Foreclosure Proceedings under Section 209.0092 of the Act as a condition to an additional alternative payment agreement. If, at any time the Association receives a payment from an Owner who is in default of an alternative payment agreement,

the Association is not required to apply the payment in the order of priority specified by Paragraph 4, Sections (a) through (f) above.

The Association may reduce or waive some or all of the charges addressed by this policy on an ad hoc basis without waiving the right to charge such fees on future requests.

Section 7.07. Notice and Opportunity to Cure for Certain Other Lienholders. The Association may not foreclose its assessment lien by Expedited Foreclosure Proceedings or judicially unless it has: provided written notice by certified mail, return receipt requested, of the total amount of the delinquency to any other holder of a lien that is inferior or subordinate to the Association's lien and is evidenced by a deed of trust; and provided the recipient of the notice an opportunity to cure within sixty-one (61) days from the receipt of the notice.

Section 7.08. Foreclosure Sale Prohibited in Certain Circumstances. The Association may not foreclose its assessment lien for debts consisting solely of fines or attorneys' fees associated with the fines assessed, or for copy charges under its Open Records Policy, pursuant to S 209.005 of the Act.

Section 7.09. Assessment Lien Filing. In addition to the right of the Association to enforce the Maintenance Charge or other charge or assessment levied hereunder, the Association may file a claim of lien against the Lot of the delinquent Owner by recording a Notice of Lien setting forth (a) the amount of the claim of delinquency, (b) the interest thereon, (c) the costs of collection which have accrued thereon, (d) the legal description and street address of the Lot against which the lien is claimed and (e) the name of the Owner. The Notice of Lien shall be recorded in the Official Records of Brazos County, Texas, and is a legal instrument affecting title to a Lot, and shall be prepared by the Association's attorney. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice of satisfaction of the delinquent assessment upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such instrument.

Section 7.10. Attorney's Fees. All attorney's fees, costs, and other amounts collected from an Owner shall be deposited into an account maintained at a financial institution the name of the Association or its Managing Agent. Only Board members or the Association's Managing Agent or employees of its Managing Agent may be signatories on the account on written request from the Owner, the Association shall provide copies of invoices for attorney's fees and other costs relating only to the matter for which the Association seeks reimbursement of fees and costs.

Section 7.11. Notice After Foreclosure Sale. After the Association conducts a foreclosure sale of an Owner's Lot, the Association must send to the Owner and to each lienholder of record, not later than the thirtieth (30th) day after the date of the foreclosure sale, a written notice stating the date and time the sale occurred and informing the Lot Owner and each lienholder of record of the right of the Lot owner and lienholder to redeem the property. The notice must be sent by certified mail, return receipt requested, to the Lot Owner's last known mailing address, as reflected in the records of the Association, the address of each holder of a lien on the Lot subject to foreclosure evidenced by the most recent deed of trust filed of record in the real property records of the county in which the property is located, and the address of each transferee or assignee of a deed of trust who has provided notice to the Association of such assignment or transfer. Notice provided by a transferee or assignee to the Association shall be

in writing, shall contain the mailing address of the transferee or assignee and shall be mailed by certified mail, return receipt requested, or United States mail with signature confirmation to the Association according to the mailing address of the Association pursuant to the most recent Management Certificate filed of record. If a recorded instrument does not include an address for the lienholder, the Association does not have a duty to notify the lienholder as provided by this section. For purposes of this section, the Lot Owner is deemed to have given approval for the Association to notify the lienholder. Not later than the thirtieth (30<sup>th</sup>) day after the date the Association sends the notice, the Association must record an affidavit in the Real Property Records, stating the date on which the notice was sent and containing a legal description of the Lot. Any person is entitled to rely conclusively on the information contained in the recorded affidavit. The notice requirements of this section also apply to the sale of an Owners Lot by a sheriff or constable conducted as provided by a judgment obtained by the Association.

Section 7.12. Right of Redemption After Foreclosure. The Owner of a Lot in the Subdivision a

lienholder of record may redeem the property from any purchaser at a sale foreclosing the Association's assessment lien not later than the one hundred eightieth (180<sup>th</sup>) day after the date the Association mails written notice of the sale to the Owner and the lienholder under Sections 209.010 and 209.011 of the Act. A lienholder of record may not redeem the Lot as provided herein before ninety (90) days after the date the Association mails written notice of the sale to the Lot Owner and the lienholder under the Act, and only if the Lot Owner has not previously redeemed. A person who purchases a Lot at a sale foreclosing the Association's assessment lien may not transfer ownership of the Lot to a person other than a redeeming Lot Owner during the redemption period.

Section 7.13. Removal of Foreclosure Authority. The right to foreclose the lien on real property for unpaid amounts due to the Association may be removed by a vote of at least sixty-seven percent (67%) of the total votes allocated in the Association. Owners holding at least ten percent (10%) of all voting interests may petition the Association and require a special meeting to be called for the purpose of taking a vote for the purposes of this section. This section is required pursuant to S209.0093 of the Act, and should this provision be amended or repealed in any form, this section shall be deemed to be automatically amended or repealed in accordance therewith.

Section 7.14. Right of Declarant to Set Rate. During the Development Period, Declarant is entitled to change the annual rate of a Regular or Special Assessment as set forth in this section without the joinder, vote\* or consent of any Owner and without further formality than giving notice. Without limitation to the foregoing, the provisions regarding disapproval of an annual rate of Regular or Special Assessments are specifically declared inapplicable when the rate is set by Declarant under this section.

Section 7.15. Payment of Assessments by Declarant during Development Period. Notwithstanding any provision herein to the contrary, so long as a Class membership exists, Declarant shall pay twenty-five percent (25%) of the Regular Assessment Declarant would owe pursuant to this Declaration as a Class "A" Member; and, as long as Declarant is a Class "B" Member, Declarant, or any assigns of Declarant, shall pay any deficiency in the operating budget, less capital contributions and reserves for the Common Expenses for the Subdivision, which deficiency shall be reimbursed to Declarant by the Association as funds become available.

Section 7.16. Assessments for Contractors. From the date a Contractor acquires a Lct until the earlier of (a) the date a residence is constructed thereon end sold to another person or (b) the date which is eighteen (13) months thereafter, each Contractor shall pay fifty percent (50%) of the Assessments such Contractor would owe pursuant to this Declaration as a Class Member.

## ARTICLE VIII

### DUTIES AND POWERS OF THE ASSOCIATION

Section 8.01. General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has delegated such powers (and subject to the provisions of the Bylaws): shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the members, to maintain, improve and enhance the Common Areas and to improve and enhance the attractiveness, desirability and safety of the Subdivision. The Association shall have the authority to act as the agent to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the Association as set forth in this Declaration and other dedicatory instruments.

Section 8.02. Duty to Manaae and Care for the Common Area. The Association shall manage, operate care for, maintain and repair all Common Areas and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Areas shall but not be limited to the management, maintenance, repair and upkeep of the Subdivision and Common Areas.

Section 8.03. Duty to Insure. The Association shall obtain such insurance as may be required by law, and as the Association shall deem necessary or desirable.

Section 8.04. Duty to Prepare Annual Budget. The Association shall prepare annual budgets for the Association, which shall include a reserve fund for the maintenance of the Common Areas.

Section 8.05. Duty to Levy and Collect the Maintenance Charge. The Association shall levy, collect and enforce the Maintenance Charge and other charges and assessments as elsewhere provided in this Declaration.

Section 8.06. Duty to Provide Annual Review. The Association shall provide for an annual unaudited independent review of the accounts of the Association. Copies of the review shall be made available to any Member who requests a copy of the seme upon payment by such Member of the reasonable cost of copying, pursuant to the Association's Open Records Policy, pursuant to S 209.005 of the Act,

Section 8.07. Duties with Respect to Architectural Approvals. The Association shall perform functions to assist the ACC as elsewhere provided in this Declaration.

Section 8.08. Duty to Prepare and Record Management Certificates. The Association shall record in the Official Records of Brazos County a Management Certificate, signed by an officer of the Association, or the Managing Agent stating the name of the Subdivision, the name of the Association, the recording data of the Subdivision, the recording data of this Declaration, the name and mailing address of the Association, the name and mailing address of the Associations Managing Agent or designated representatives and other information the Association considers appropriate. The Association shall record an amended Management Certificate not later than

the thirtieth (30th) day after the Association has a change in any information required herein. The Association, and its officers, Directors, employees, and agents are not subject to liability to any person for a delay in recording or a failure to record the Management certificate unless the delay or failure is caused by gross negligence.

Section 8.09. Power to Acquire Additional Property and Construct Improvements. The Association may acquire additional property (including leases) for the common benefit of Owners including improvements and personal property. The Association may construct improvements on such property and may demolish existing improvements.

Section 8.10. Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce Rules and Regulations, and levy fines, as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Areas, and the use of any other property, facilities or improvements owned or operated by the Association.

## ARTICLE IX ENFORCEMENT

Section 9.1. Power to Enforce Restrictions Contained in Association Dedicatory instruments. The Association or their designated agent shall have the power to enforce the provisions of this Declaration, Bylaws, Design Guidelines and the Rules and Regulations and shall take such action as the Board of Directors deems necessary or desirable to cause such compliance by each Owner. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the dedicatory instruments by any one or more of the following means: (a) by entry upon any Lot within the Subdivision, after notice and hearing unless a bona fide emergency exists in which event this right of entry may be exercised without written or oral notice to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the improvements situated thereon by the Owner or any other person); without liability in trespass or otherwise by the Association to the Owner thereof, for the purpose of enforcement; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach; (c) by exclusion, after notice and hearing, of any Owner from use of any recreational facilities within the Common Areas during and for up to sixty (60) days following any breach} unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (d) by levying and collecting, after notice and hearing, reimbursement to the Association for the costs incurred by the Association (including; but not limited to pre-litigation attorney's fees) in connection with the remedy of such breach; (e) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties established in advance in the Rules and Regulations of the Association, from any Member for breach of the dedicatory instruments; and/or (f) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Owner, plus attorney's fees incurred by the Association with respect to exercising such remedy.

Section 9.2. Duty to Provide Notice Before Enforcement Action. Before the Association may suspend an Owner's right to use the Common Area, file a suit against an Owner other than a suit to collect a Maintenance Charge, or a Regular or Special Assessment or foreclose under the Association's lien: charge an Owner for property damage, or levy a fine for a violation of the Declaration, Bylaws Design Guidelines, or Rules and Regulations, the Association or its Managing Agent must give written notice to the Owner by certified mail, return receipt

requested. The notice must describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the Association from the Owner and inform the Owner that the Owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension (unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months), may request a hearing under Section 209.007 of the Act on or before the thirtieth (30th) day after the date the Owner receives the notice, and may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.); if the Owner is serving on active military duty.

Section 9.3. Hearing Before Board: Alternative Dispute Resolution. If the Owner is entitled to an opportunity to cure the violation, the Owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before a committee appointed by the Board or before the Board of Directors if a committee is not appointed. If a hearing is to be held before a committee, the notice prescribed by Section 209.006 of the Act must state that the Owner has the right to appeal the committee's decision to the Board by written notices. The Association shall hold a hearing under this section not later than the thirtieth (30th) day after the date the Board receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the tenth (10th) day before the date of the hearing. The Board or the owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. The Owner or the Association may make an audio recording of the meeting. The Association shall hold a hearing under this section not later than the thirtieth (30th) day after the date the Board receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the tenth (10th) day before the date of the hearing. The Board or the Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. The Owner or the Association may make an audio recording of the meeting and may use alternative dispute resolution services. The Owner's presence is not required to hold a hearing.

Section 9.4. Attorney's Fees. The Association may collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the Association relating to collecting amounts; including damages due the Association for enforcing restrictions contained in its dedicatory instruments only if the Owner is provided a written notice that attorney's fees and costs will be charged to the Owner if the delinquency or violation continues after a date certain. An Owner is not liable for attorney's fees incurred by the Association relating to a matter described by the notice under this section if the attorney's fees are incurred before the conclusion of the hearing; or, if the Owner does not request a hearing, before the date by which the Owner must request a hearing. All attorney fees, costs, and other amounts collected from an Owner shall be deposited into an account maintained at a financial institution in the name of the Association or its Managing Agent. Only Board members or the Association's Managing Agent or employees of its Managing Agent may be signatories on the account. On written request from the Association shall provide copies of invoices for attorney's fees and other costs relating only to the matter for which the Association seeks reimbursement of fees and costs.

## ARTICLE X

### SUBDIVISION INFORMATION

Section 10.1. Delivery Of Subdivision Information to Owner. Not later than the tenth (10th) business day after the date a written request for Subdivision information is received from an Owner or the Owners agent, a purchaser of a Lot or Lots in the Subdivision cc the purchasers agent, or a title insurance company or its agent acting on behalf of the Owner or purchaser, and the evidence of the requestor's authority to order a resale certificate is received and verified, the Association shall deliver to the Owner or the Owner's agent, the purchaser or the purchasers agent, or the title insurance company or its agent a current copy of the Declaration, Bylaws and Rules of the Association and a resale certificate prepared not earlier than the sixtieth (60th) day before the date of delivery that complies with Texas Property Code S 207.003. For a request from a purchaser of property in the Subdivision or the purchaser's agent, the Association may require the purchaser or purchaser's agent to provide to the Association before the Association begins the process of preparing or delivers the items listed, reasonable evidence that the purchaser has a contractual or other right to acquire property in the Subdivision. A resale certificate must contain a statement of any right of first refusal, other than a right of first refusal that is prohibited by statute: and any other restraint contained in the dedicatory instruments that restricts the Owners right to transfer the Owner's Lot, the frequency and amount of any Maintenance Charge and Regular Assessments, the amount and purpose of any Special Assessment that has been approved before and is due after the resale certificate is delivered, the total of all amounts due end unpaid to the Association that are attributable to the Owner's Lot, capital expenditures, if any, approved by the Association for the current fiscal year, the amount of reserves, if any, for capital expenditures, the Association's current operating budget and balance sheet, the total of any unsatisfied judgments against the Association, the style and cause number of any pending lawsuit in which the Association is a party, other than a lawsuit relating to unpaid ed valorem taxes of an individual member of the Association, a copy of a certificate of insurance showing the Association's property and liability insurance relating to the Common Areas and common facilities, a description of any conditions on the Owner's Lot that the Board has actual knowledge are in violation of the Declaration or Bylaws or Rules, a summary or copy of notices received by the Association from any governmental authority regarding health or housing code violations existing on the preparation date of the resale certificate relating to the Owners Lot or any Common Areas, the amount of any administrative or transfer fee charged by the Association or its Managing Agent for a change of ownership of Lots in the Subdivision, the name, mailing address, and telephone number of the Association's Managing Agent, a statement indicating whether the restrictions allow foreclosure of the Association's lien on the Owners Lot for failure to pay assessments, end a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid: and the amount of each fee. The Association may charge a

reasonable fee to assemble, copy, and deliver the information required by this section and may charge a reasonable fee to prepare and deliver an update of a resale certificate. The Association may require payment before beginning the process of providing a resale certificate but may not process a payment until the resale certificate is available for delivery. The Association may not charge a fee if the resale certificate is not provided at the time prescribed. The Association shall deliver the information required to the person specified in the written request, A written request that does not specify the name and location to which the information is to be sent is not effective. The Association may deliver the information required and any update to the resale certificate by mail, hand delivery, or alternative delivery means specified in the written request. Neither the Association nor its Managing Agent is required to inspect a Lot before issuing a resale certificate or an update. Not later than the seventh (7th) business day after the date a written request for- an update of a resale certificate is received from an Owner, Owner's

agent, or title insurance company, the Association shall deliver to the Owner, Owner's agent or title insurance company or its agent an updated resale certificate that contains the following information: if a right of first refusal or other restraint on sale is contained in the dedicatory instruments, a statement of whether the Association waives the restraint on sale; the status of any unpaid Regular or Special Assessments. Maintenance Charges, dues, or other payments attributable to the Owners Lot(s); and any changes to the information provided in the resale certificate issued previously. Requests for an updated resale certificate must be made within one hundred eighty (80) days of the date the original resale certificate was issued. The updated request may be made only by the party requesting the original resale certificate.

Section 10.2. Online Subdivision Information Required. The Association shall make the dedicatory instruments relating to the Subdivision and filed in the county deed records available on its website if the Association has! or its Managing Agent on behalf of the Association maintains a publicly accessible website.

## ARTICLE XI GENERAL PROVISIONS

Section 11.01. Term. The provisions hereof shall run with ail Lots within the Subdivision and in the Subdivision and shall be binding upon all Owners and all persons claiming under them for a period of twenty (20) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each.

Section 11.02. Amendment.

a. By Declarant. Declarant, during the Development and Declarant Control Periods, reserves the sole and exclusive right, without joinder or consent of any Owner, to (i) amend, restate, modify or repeal, this Declaration and other dedicatory instruments; (i) amend, revise, modify: or vacate any Plat; and (iii) annex and subject any other property to the scheme of this Declaration, provided that any annexation is not inconsistent with the scheme of the Subdivision. This Declaration or other dedicatory instrument of the Subdivision may not be amended during the period of time between which Declarant loses the majority of voting rights and the time a new Board of Directors of the Association, consisting of Owner Members: assumes office.

b. BV Owners. This Declaration may be amended or restated by the written agreement or by signed ballots voting for such of not less than sixty-seven percent (67%) of all of the Owners in the Subdivision. There shall be one (1) vote per Lot. Anyone owning more than one Lot shall have one vote for each Lot owned. Such amendment must be approved by said Owners within three hundred and sixty-five (365) days of the date the first Owner executes such amendment. Otherwise: such amendment Shali fail. If the amendment is adopted it shall bind and affect the respective Lots whose Owners shall approve such amendment from the time alter the date such amendment is approved by each Owner. The date an Owner's signature is acknowledged shall constitute prima facia evidence of the date of execution and adoption of said amendment by such Owner. Those Members entitled to cast not less than sixty-seven percent (67%) of all of the votes of the Association may also vote to amend this Declaration, in personal or by proxy, at a meeting of the Members duly called for such purpose, written notice of which shall be given to ail Owners at least ten (10) days and not more than sixty (60) days in advance end shall set forth the purpose of such meeting. Any such amendment shall

become effective when an instrument is filed for record in the Official Records of Brazos County, Texas, accompanied by a certificate, signed by a majority of the Board of Directors, stating that the required number of Members voted in favor of the instrument amending this Declaration or cast a written vote, in person or by proxy, favor of said amendment at the meeting called for such purpose.

C. By the Association. The Board of Directors has the right in its sole judgment, from time to time, and at any time, to amend this Declaration without joining any Owner or Member for the following purposes:

(i) to resolve or clarify any ambiguity or conflicts herein, or to correct any inadvertent misstatements, error\* or omissions herein; or (ii) to conform this Declaration to the requirements of any lending institution; provided, the Board has no obligation whatsoever to amend this Declaration in accordance with any such lending institution requirements, and the Board may not so amend this Declaration if, in the sole opinion of the Board, any substantive and substantial rights of Owners would be adversely affected thereby; or

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

(iii) to amend the Rules and Regulations of the Association, if the Board deems appropriate to comply with the scheme of the Declaration and the Subdivision; and

(iv) to amend the alternative payment schedule for certain assessments, open records policy, records retention policy, and/or other policies to comply with the Act.

Section 11.03. Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity oi unenforceability or partial invalidity or partial unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 11.04. Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose and intent oi this Declaration.

Section 11.05. Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners and the Association, and respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 11.06. Effect of Violations on Mortgages. No violation of the provisions herein contained. or any portion thereof shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, the holder of any such lien or beneficiary of any such deed of trust; and any such mortgage, lien or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

Section 11.07. Terminology. All personal pronouns used in this Declaration and exhibits attached, if any, whether used in the masculine, feminine or neuter gender, Shali include all

other genders: the singular shall include the plural and vice versa. Titles of articles and sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself.

Section 11.08. Number and Gender. Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

Section 11.09. No Representations or Warranties. No representations or warranties of any kind express or shall be deemed to have been given or made by the Association or agents or employees in connection with any portion of the Subdivision, or any improvement thereon, it's or their physical condition, compliance with applicable laws, fitness for intended use; or in connection with the sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof unless and except as specifically shall be set forth in writing.

Section 11.10. Captions. The titles, headings, captions, articles and section numbers used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration. Unless the context otherwise requires, references herein to articles and sections are to articles and sections of this Declaration.

Section 11.11. Not a Condominium. This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act.

Section 11.12. Governing Law. This Declaration shall be construed and governed under the laws of the State of Texas.

IN WITNESS WHEREOF, Declarant executes this Declaration, on the \_\_\_\_\_ day of \_\_\_\_\_ 2025.

STATE OF TEXAS  
COUNTY OF BRAZOS

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2025, by Thomas Pack, Manager of BLACKROCK BUILDERS GP, LLC, a Texas limited liability

company, general partner, BLACKROCK BUILDERS, LP, a Texas limited partnership, in the capacity stated there, as the act and deed of said entity.

---

NOTARTY PUBLIC, State of Texas

STATE OF TEXAS  
COUNTY OF BRAZOS

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2025, by Brian E. McDonald, Manager of BLACKROCK BUILDERS GP, LLC, a Texas limited liability company, general partner, BLACKROCK BUILDERS, LP, a Texas limited partnership, in the capacity stated there, as the act and deed of said entity.

---

NOTARTY PUBLIC, State of Texas

STATE OF TEXAS  
COUNTY OF BRAZOS

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2025, by Alisa McDonald, Manager of BLACKROCK BUILDERS GP, LLC, a Texas limited liability company, general partner, BLACKROCK BUILDERS, LP, a Texas limited partnership, in the capacity stated there, as the act and deed of said entity.

---

NOTARTY PUBLIC, State of Texas



